



# **SPAIN'S NATIONAL RENEWABLE ENERGY ACTION PLAN (NREAP) 2011 -2020 (Regulations in force in each of the Autonomous Communities)**

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# **AUTONOMOUS COMMUNITY OF ANDALUSIA**

## AUTONOMOUS COMMUNITY OF ANDALUSIA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of Andalusia, the following regulatory provisions are in force which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) plants using renewable energy sources.

- n **Instruction of 21 January 2004** issued by the Directorate-General of Industry, Energy and Mines regulating the procedure for commissioning of photovoltaic installations connected to the grid.
- n **Decision of 23 February 2005** of the Directorate-General of Industry, Energy and Mines laying down the supplementary rules for the connection of certain special scheme electricity generation plants and groups of the latter to low-voltage distribution grids.
- n **Decree 59/2005** of 1 March 2005 regulating the procedure for installation, enlargement, transfer and commissioning of industrial establishments and the control, liability and sanctioning thereof.
- n **Instruction of 12 May 2006** issued by the Directorate-General of Industry, Energy and Mines supplementing the Instruction of 21/1/2004 regulating the procedure for commissioning photovoltaic installations connected to the grid.
- n **Instruction of 9 October 2006** of the Directorate-General of Industry, Energy and Mines stipulating the documents needed to process the Industry and

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of Andalusia:

- n The Town Planning Act of Andalusia, **Law 7/2002** of 17 December 2002.
- n Municipal by-laws which may have been enacted by Local Governments.

#### ENVIRONMENT

Besides the State regulations, the following regulatory provisions shall be applicable within the territorial limits of Andalusia:

- n The Environmental Quality Management Act of Andalusia, **Law 7/2007** of 9 July 2007.
- n **Decree 297/1995** of 19 December 1995 adopting the Environmental Rating Regulation of Andalusia.

Energy authorisations or registers required by the Andalusian Administration.

- n **Law 2/2007** of 27 March fostering renewable energies and energy saving in Andalusia.
- n Joint **Instruction 1/2007** of the Directorate-General of Town Planning and the Directorate-General of Industry, Energy and Mines concerning the reports to be issued by the Regional Ministry of Public Works and Transport on the implementation of electricity generating projects using renewable energy sources as provided in Article 12 of Law 2/2007.
- n **Decree 50/2008** of 19 February 2008 regulating the administrative procedures pertaining to solar photovoltaic energy plants in the Autonomous Community of Andalusia.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 49 of the Statutes of Autonomy of Andalusia, approved by Organic Law 2/2007 of 19 March 2007 reforming the Statutes of Autonomy of Andalusia grants shared competence to the **Andalusian Regional Government** for energy production, distribution and transmission installations where such transmission is strictly within the territory of Andalusia and its use does not affect any other territory, and the competence to promote and manage renewable energies and energy efficiency.

It likewise has exclusive competence for the regulation of energy production, storage and transmission activities and their authorisation, inspection and control, and shall establish supply service quality standards as appropriate.

### TOWN PLANNING

Article 56 of the **Statutes of Autonomy** of Andalusia, approved by Organic Law 2/2007 of 19 March 2007 reforming the Statute of Autonomy of Andalusia, grants exclusive competence to the Andalusian Regional Government in matters of town planning which includes, in any case, regulation of land use planning, regulation of the legal regime of land ownership while respecting the basic conditions laid down by the central government to guarantee equality in the exercise of the right to own property; and the establishment and regulation of town planning and management instruments.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of protection of the environment.

Article 57 of the Statutes of Autonomy of Andalusia, approved by Organic Law 2/2007 of 19 March 2007 reforming the Statute of Autonomy of Andalusia, grants shared competence to the **Andalusian Regional Government** to establish and regulate environmental planning instruments and the procedure for processing and approving such instruments.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

In accordance with Law 2/2007, regulation is required to unify the public information formalities included in municipal authorisation procedures and those of the different competent bodies involved.

### TOWN PLANNING

We are not aware of any modification of applicable rules.

### ENVIRONMENT

In accordance with the provisions of Law 7/2007, implementing legislation must be drawn up to regulate the processing of the unified Environmental Authorisation and the procedure for issuance of the Environmental Rating.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

In accordance with Law 2/2007, the implementation of electricity production installations from renewable energy sources requires the permits described in the national legislation (RD 1955/2000 and RD 661/2007), which is subsidiarily applicable in this Autonomous Community. Pursuant to that legislation, these plants require the following industrial authorisations:

- n Recognition of the installation's status as a Special Scheme plant.
- n Administrative authorisation of the installation's draft project.
- n Approval of the installation project.
- n Commissioning certificate.
- n Filing at the Registry of Special Scheme Energy Generation plants.

Decree 50/2008 regulates the authorisations required for solar photovoltaic installations connected to the distribution or transmission grid and requires the same authorisations listed above regardless of installed capacity.

However, photovoltaic installations isolated from the grid (i.e. plants for self-consumption which are not connected and therefore do not deliver energy to an electricity distribution or transmission grid) do not require an

### TOWN PLANNING

According to Law 7/2002, the following planning authorisations shall be required for construction of electricity generation plants from renewable sources and of connecting installations:

- n Building Permit.
- n First use permit.
- n Requisite Special Plan or Action Project (when located on non-developable land).

Construction of plants on non-developable land where the following circumstances apply shall require a Special Plan:

- Include land belonging to more than one municipality.
- Affect more than one municipality owing to their nature, size or purpose.
- Affect the structural regulation of the requisite General Urban Development Plan
- In any case when they occupy a surface area of over 50 hectares.

In accordance with Instruction 1/2007, generation plants, excluding connection lines, are deemed to

### ENVIRONMENT

For the construction of **plants for generation of electricity using renewable energy sources and connecting installations** the following environmental authorisations will be required:

- n **Environmental Impact Statement.** When the installation requires authorisation from the State Administration.
- n **Integrated Environmental Authorisation.** The construction of public and private installations where any one of the activities described in Annex I of Law 7/2007 requires this authorisation.

Having regard to the aim of the Study, the following combustion plants whose thermal capacity exceeds 50 MW require this authorisation:

- Ordinary and special scheme electricity generation plants where fossil fuels, waste or biomass are used for combustion.
- Cogeneration plants, boilers, steam generators or any other combustion equipment or installation on site at an industry regardless of whether this is its principal activity.

- n **Unified Environmental Authorisation.** The following actions require this authorisation:

authorisation for installation but simply notification to the competent administration of the Autonomous Community before commencing operation.

Other low-voltage electricity generation installations likewise do not require any authorisation prior to start-up but simply notification to the competent administration of the Autonomous Community before commencing operation.

In the case of **thermal energy generation plants** (heating and/or cooling), we should note that the rules applying to this kind of plant (where the energy produced is put to industrial use or it is used in buildings) do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

have supra-municipal implications and therefore require a Special Plan, in the following cases:

- Where the plant occupies a surface area of more than 50 hectares.
- If the plant is built on land belonging to more than one municipality.

In all other cases, an Action Plan shall be required.

The construction of **thermal energy generation plants** (heating and/or cooling) using renewable energy sources shall require the following planning authorisations depending on the impact of the works:

- n Building permit, depending on the planning impact of the proposed plant.
- n First use permit.
- n Special Plan or Action Project.

- The actions, public or private, listed in Annex I, which include the following:
  - o Solar or photovoltaic electricity plants located on non-developable land and occupying a surface area of over 2 hectares.
  - o Hydroelectric energy production installations.
  - o Construction of overhead lines for the distribution of electricity over 3 000 m in length (except replacement lines which do not deviate more than 100 m from the course).
  - o Wind farms.
- Activities subject to environmental rating which extend beyond the limits of one municipality.
- Public and private actions which, while not included in the foregoing sections, may directly or indirectly affect areas included in the Natura 2000 European Ecological Network when so decided by the Regional ministry responsible for environmental affairs.
- Other actions which, owing to requirements arising from basic national legislation, are subject to environmental impact assessment.
- n **Environmental rating:** The construction of public and private installations where any of the activities described in Annex I of Law 7/2007 requires this authorisation. According to this Annex, the following actions require an Environmental Rating:
  - Combustion plants which require an Integrated Environmental Authorisation where the thermal capacity is less than 50 MW.
  - Solar or photovoltaic electricity generation plants located on non-developable land which do not

require a Unified Environmental Authorisation.

- Construction of overhead lines for the distribution of electricity under 3 000 m in length (except replacement lines which do not deviate more than 100 m from the course).

**n Start-up.**

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

In accordance with the provisions of Decree 50/2008 and Instruction 1/2007, the following bodies have the power to grant the authorisations needed to build electricity generation plants:

- n Directorate-General of Industry, Energy and Mines** is competent to issue an Administrative Authorisation and Project Approval in the case of plants affecting more than one province.

For these plants, the Directorate-General will also be competent to determine their status as Special Scheme production plants and for filing at the Registry of Special Scheme Energy Generation plants of the Autonomous Community of Andalusia.

- n The Provincial Delegation of the Regional ministry** responsible for energy matters shall be competent to issue Administrative Authorisation and

### TOWN PLANNING

The authority competent to grant building permits and first use permits is the Local Corporation of the municipality where the plant is to be located, in the case of both electricity generation plants and thermal energy generation plants and associated facilities.

The Local Corporation is equally competent to approve the Action Project of plants located on non-developable land when so required and is responsible for Special Plans at municipal level.

The Regional ministry responsible for town planning is responsible for granting final approval of Special Plans having supra-municipal impact or interest.

### ENVIRONMENT

The competent body of the State Administration is the one empowered to grant the **Environmental Impact Statement** where one is required.

The Regional ministries responsible for environmental matters are competent to process and decide on the **Integrated Environmental Authorisation and the Unified Environmental Authorisation** and to grant permits for operation of plants which they have authorised.

The Local Corporations are competent to issue the **Environmental Rating** and to issue permits for operation of plants which they have authorised.



Project Approval in the case of plants affecting one single province.

For these plants, the Provincial Delegation will also be competent to determine their status as Special Scheme production plants and for filing at the Registry of Special Scheme Energy Generation plants of the Autonomous Community of Andalusia.

The Provincial Delegations shall have the power to grant operation permits for all plants, regardless of what body authorised their establishment.

The Provincial Delegations of the Regional ministry responsible for energy matters shall likewise be responsible for the processing of isolated solar photovoltaic installations.

## INFORMATION MEASURES

### INDUSTRY

Processing of the requisite industrial authorisations is generally governed by the provisions of RD 1955/2000, which requires that the application for administrative authorisation for electricity generation plants using renewable energy sources and connecting installations be subject to publication in the Official Provincial Gazette or the Official Gazette of the Autonomous Community during a minimum twenty-day period.

Also, RD 1955/2000 provides that the decision to grant Administrative Authorisation to a plant is to be published in the appropriate Official Provincial Gazettes.

### TOWN PLANNING

When it becomes necessary to process an Action Project because a plant is located on non-developable land, Law 7/2002 provides that the application shall be subject to publication for a period of twenty days in the Official Provincial Gazette and the owners of the lands included within the scope of the project must be notified.

Also, the decision approving the Action Project must be published in the appropriate Official Provincial Gazette.

The processing of Special Plans to authorise certain actions on non-developable land must also be publicised for a period of at least one month. The owners of lands included within the scope of the Plan must also be notified as part of the public information process.

In addition, where the Plan is approved by the Regional Government it must be published in the Official Gazette of the Andalusian Regional Government and where approved

### ENVIRONMENT

Application for the integrated environmental authorisation, accompanied by the environmental impact study and the municipal permit application shall be subject to public information for a period of not less than 45 days.

This public information period will likewise apply to procedures included in the integrated environmental authorisation and, where applicable, for the substantive authorisation procedures referred to in Article 3b) of Law 16/2002 of 1 July 2002.

Application for the unified environmental authorisation shall be subject to the same participation procedure laid down in the basic legislation regulating environmental impact assessments. In other words, it must be publicised together with the project under study, and the Decision must be published.

In accordance with Decree 297/1995, application for Environmental Rating shall be subject to public information for a period of twenty days in the form of an announcement

by Local Corporations, in the Official Provincial Gazette.

on the bulletin board of the Local Corporation where the project is to be implemented and personal notification of those living nearby.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

Besides the coordination provisions under the national legislation (RD 1955/2000) and RD 661/2007), which as noted is subsidiarily applicable in the Autonomous Community of Andalusia for processing of the authorisations and permits needed to execute electricity generation plants which use renewable energy sources, Law 2/2007, Decree 50/2008 and Instruction 1/2007 provide a series of coordination mechanisms with town planning bodies.

In particular, these provisions provide the following coordination mechanisms where installations are located on non-developable land:

- n Application for administrative authorisation must be accompanied by a town planning compatibility report issued by the Local Corporation of the municipality where the action is to be located.
- n The body competent to process the industrial authorisation will, in turn, request a report from the Provincial Delegation of the Regional ministry responsible for town planning matters on the proposed action's compliance with town and country planning. The said report must be issued within a period of thirty days.
- n Before the Project can be approved, where mandatory, once the aforementioned reports have been obtained or upon expiry of the time limit without their having been obtained, the requisite Action Project or Special Plan, as the case may be, must be processed before the administrative authorisation

### TOWN PLANNING

Pursuant to Law 2/2002, the authorisations or reports which, according to applicable law, are a prerequisite for the permit, must be attached to the application for the municipal building permit.

The processing of Action Programmes requires the issuance of a report by the Regional ministry responsible for town planning matters before a decision may be taken by the Local Corporation in full session.

As regards the processing of Special Plans, Law 7/2002 provides that following preliminary approval the municipalities affected be given a hearing during the public information period and reports, opinions or other kinds of pronouncement be requested from the bodies and administrative bodies responsible for management of the public interests affected.

In addition, where the aim of the Plan affects the competences of supra-municipal administrations, information must be simultaneously forwarded to the other administrative bodies and entities responsible for managing public interests having territorial relevance or impact so that they can act in the proceedings if they so desire.

Once preliminary approval is granted this is notified to any of the foregoing administrations which issued reports for them to verify, or if appropriate adapt, the content of the said report.

### ENVIRONMENT

According to Law 7/2007, to obtain the environmental prevention and control instruments regulated therein, owners or developers are not required to obtain the rest of the authorisations, permits or licenses required in accordance with regulations in force in each case.

Furthermore, actions subject to the Integrated Environmental Authorisation, the Unified Environmental Authorisation or the Environmental Rating may not be required to obtain a municipal operating permit for that activity, a substantive authorisation or execution before the relevant procedure regulated in the cited Law is concluded.

As regards the **Integrated Environmental Authorisation** procedure, Law 7/2007 provides for the following coordination mechanisms:

- n During the preliminary enquiry stage to determine the scope of the information required of the developer, the competent environmental body may consult with other bodies, institutions, organisations and scientific authorities.
- n During the processing stage, once the publicity has concluded, the complete dossier is sent to all the public administrations and bodies of the Andalusian Regional Government that are required to take part in the authorisation process.
- n Also, the decision granting the Environmental Authorisation shall be notified to the interested parties, the Local Corporation where the installation is located and the administrations involved in its processing.

may be granted.

- n The Environmental Impact Study is processed as part of this procedure, and where necessary an Environmental Impact Statement is obtained from the State Administration.

As regards the **Unified Environmental Authorisation** procedure, Law 7/2007 provides for the following coordination mechanisms:

- n During the preliminary enquiry stage to determine the scope of the information required of the developer, the competent environmental body may consult with other bodies, institutions, organisations and scientific authorities.
- n The project and the environmental impact study is forwarded to the decision-making body for its report, and any reports which are mandatory according to the applicable legislation are requested from the different bodies and institutions.

In the case of the **Environmental Rating**, Law 7/2007 provides that it be processed as part of the procedure for granting of the requisite municipal permit.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

The industrial regulations of the Autonomous Community of Andalusia only regulate the specific authorisation procedure for photovoltaic plants, while State regulations subsidiarily apply to all other plants. However, the following particular cases apply when the plant is located on non-developable land:

- n An annex describing the applicable urban planning requirements and an analysis of compliance with these must be attached to the application along with a planning compliance report issued by the Local Corporation in the municipality where the actions are

### TOWN PLANNING

The procedure for obtaining a **building permit** is regulated in a general way in Law 7/2002, and consists of the following steps:

- n It commences with the application by the interested party (where the permit entails the occupation or use of public domain, an authorisation or concession from the Administration responsible for that domain is required).
- n Once the application is filed, the Local Corporation informs the rest of the administrations affected for

### ENVIRONMENT

Law 7/2007 lays down the procedure for obtaining the pollution prevention and control instruments regulated therein.

According to this Law, the procedure for processing of the **Integrated Environmental Authorisation** is as set out in Law 16/2002 (whose stages were outlined in the analysis of the national legislation), with the following particularities:

- n Preliminary consultation: Developers may request the opinion of the Regional Ministry responsible for environmental matters regarding the scope, breadth and level of detail required of the information contained

to be carried out.

- n The Regional ministry responsible for energy matters must also request a report from the Regional Department responsible for urban planning matters on the proposed action's compliance with town and country planning.
  - n If either of the foregoing reports indicates that the action does not comply with town or country planning regulations, the Regional Ministry responsible for energy matters shall issue a reasoned decision terminating the procedure.
  - n Regulation is required to unify the public information formalities required to obtain authorisations from municipal authorities and from the different competent bodies involved.
- In the meantime, the particularities envisaged in Decree 50/2008 regarding urban planning formalities for plants on non-developable land are applicable.
- n In cases so requiring, a Special Plan or Action Project must be obtained by the body responsible for urban planning matters before the project can be approved.

However, where a Special Plan is processed within the definition of a Renewable Energy Area, the Regional Ministry responsible for urban planning does not intervene in the authorisation procedure or in the installation procedure prior to granting of the permit.

Regarding photovoltaic installations (regardless of capacity and provided they are connected to the grid), Decree 50/2008 specifically regulates Processing of the requisite authorisations, which consists of the following steps:

- n **Step I (Recognition of the plant's status as a Special Scheme plant).** Applications are submitted to the corresponding body for authorisation. If the application meets requirements, recognition is

them to report on aspects within their purview.

- n The necessary legal and technical reports are issued.
- n The Local Corporation issues a decision.

However, for exact details of the procedure, it is necessary to examine the regulations laid down in the municipal by-laws.

The procedure laid down in Law 7/2002 for approval of **Action Projects** consists of the following steps:

- n Application by the interested party accompanied by the action project and all other documentation required by the applicable regulations.
- n A decision to admit or reject it.
- n If the application is admitted, it is subject to public information for a period of twenty days by means of a notice in the Official Provincial Gazette including advice to owners of land included in the project.
- n Report from the Regional Ministry responsible for urban planning matters, which must be issued within a maximum of thirty days.
- n Reasoned decision from the Local Corporation approving or rejecting the project.
- n Publication of the decision in the Official Provincial Gazette.

If within two months no decision is forthcoming from the Local Corporation regarding the admission or rejection of the application, the interested party may call for public information. Once the public information period has elapsed, the interested party may send the documentary evidence of compliance with the said formality to the Local Corporation for approval.

- n The procedure laid down in Law 7/2002 for approval of Special Plans consists of the following steps:

in the document to be submitted.

- n The Environmental Impact Study must be submitted together with the Integrated Environmental Authorisation application.
- n The documentation required under the applicable regulations for any other authorisations which have to be granted by the Regional Ministry responsible for environmental matters must likewise be attached given that these are processed jointly.
- n The application will be subject to public information together with the Environmental Impact Study and the municipal permit application for a period of not less than 45 days.
- n Depending on the result of the submissions received during the public information process, the applicant may be required to supplement or modify the application.
- n Once the public information period has concluded, the complete dossier must be sent to all the public administrations and bodies of the Andalusian Regional Government involved in the procedure.
- n Once all the requisite reports are obtained, the interested party is given a hearing.
- n Following that, a draft decision is issued which includes the findings of the environmental impact assessment conducted by the Regional Ministry responsible for environmental matters or, as the case may be, the Environmental Impact Statement issued by the national environmental body.
- n And lastly, a decision is issued regarding the integrated environmental authorisation.

Law 7/2007 provides that implementing legislation be enacted to regulate the procedure for processing the **Unified Environmental Authorisation**.

According to the terms of Law 7/2007, until such

granted within a maximum of one month.

If the body responsible for issuing a decision is the Directorate-General, the application is processed by the Provincial Delegation of the province with the largest catchment area, which has one month to submit the report to the Directorate-General which in turn has one month to issue its decision.

- n **Step II (Administrative Authorisation and Project Approval):** Once the point of connection is obtained, the owner of the installation applies for administrative authorisation and project approval.

This application is subject to the public information requirements laid down in the national legislation.

If the plant is located on non-developable land, the planning compliance report issued by the corresponding Local Corporation and the Annex describing the particulars of the applicable planning must be attached.

In this case, a compliance report will also be requested from the Provincial Delegation of the Regional Ministry responsible for urban planning matters which must issue its report within thirty days. This report is binding.

Once favourable reports have been issued by the Local Corporation and the urban planning body, a hearing is arranged for the interested party, who has ten days to state his assent or objection.

In addition, the interested party must request processing of the Action Project or Special Plan, as appropriate.

Once these urban planning instruments have been passed, the competent body will issue its decision and make it public within two months.

- n **Step III (Start-up):** Once the plant has been built, the

- n It is initiated ex officio by the Local Corporation or upon official request by any other administration or at the request of an interested party.

- n The Local Corporation will initially approve the project and publicise it and will specifically contact the owners affected by the plan and arrange a hearing, if appropriate, for other affected municipalities.

- n During this period it will request all reports required by law from the administrative bodies and entities affected.

- n In the light of the reports and submissions received, the Local Corporation will provisionally approve the Plan.

- n The body which must decide on the final approval will examine the file and, if no documentary or procedural deficiency is detected, it will issue its decision regarding final approval of the Plan.

- n Once approved, it must be published before it can take effect.

Where final approval lies with the Local Corporation, the Regional Ministry has one month to issue a compulsory report before final approval can be given.

Where Special Plans are initiated ex officio and three months elapse without notification of preliminary approval, the interested party may initiate the public information process directly and request the report from the Regional Ministry responsible for urban planning matters. Once this report is obtained, it may request final approval from the Local Corporation.

If competence for final approval lies with the Regional Ministry, the developer may appeal to the latter for such final approval of the project.

Pursuant to Law 2/2007, in the case of actions of public interest linked to the generation and transmission of

implementing legislation is enacted, this procedure shall have the following characteristics:

- n Preliminary consultation: As in the case of the Integrated Environmental Authorisation, the developer may request the opinion of the Regional Ministry responsible for environmental matters regarding the scope, breadth and level of detail required of the information contained in the document to be submitted.

- n The Regional Ministry responsible for environmental matters shall promote and ensure the right of participation in the processing of the unified environmental authorisation procedure in the terms laid down in the basic legislation regarding the environmental impact assessment.

- n During this procedure, the project and the environmental impact study are forwarded to the decision-making body for its report, and all reports which are mandatory according to the applicable legislation, and any others deemed necessary, are gathered from the different bodies and institutions.

- n Once this enquiry stage has concluded, the interested party shall be heard before a draft decision is issued, and this will be notified to the decision-making body.

- n Upon completion of the foregoing steps, the Regional Ministry responsible for environmental matters will make the decision.

An abbreviated procedure is available (six months instead of eight) to process some projects. The relevant ones for these purposes are solar or photovoltaic electricity generation plants and wind farms located on non-developable land and occupying a surface area of over 2 hectares.

Law 7/2007 provides that the **Environmental Rating** is to be processed as part of the procedure for granting of the requisite municipal permit.

Decree 297/1995 provides that the procedure will also be

owner files an application to commence operation to the Provincial Delegation of the Regional Ministry responsible for energy matters. This permit must be issued within one month.

- n **Step IV (Registration of Special Scheme Generation Plants):** Once the plant has been built, application may be made for preliminary or definitive filing at the Registry of Special Scheme Generation plants of the Autonomous Community of Andalusia. Once the application has been submitted, the Provincial Delegations or the appropriate Directorate-General of the Regional Ministry responsible for energy matters will complete the registration.

This registration may be made jointly with the plant commissioning certificate.

Pursuant to Article 6 of Decree 88/2005, the commissioning procedure for generation plants using solar energy will generally be governed by the provisions of Decree 59/2005, although the requirement of a Public Utility Declaration does NOT apply.

According to Decree 59/2005, isolated photovoltaic installations, low-voltage energy generation plants connected to the grid (not including photovoltaic) and thermal installations) may be commissioned by simply submitting the application for commissioning to the Provincial Delegation responsible for industrial matters.

The voucher received upon submission of the application to the Provincial Delegation will serve as proof that the interested party has complied with industrial safety regulations and that the Administration responsible for industrial matters has raised no objections to commissioning of the installation.

electricity in excess of 10 MW from renewable sources located on non-developable land, approval of the action project or special plan will be substituted by the issuance of a favourable report by the Regional Ministry responsible for urban planning matters.

To that end, after obtaining the urban planning permit and the requisite authorisations, the developer must request such a report and submit the requisite documentation.

incorporated into the procedure for granting of the permit needed for installation of the activity. The procedure regulated therein has the following characteristics:

- n The application shall be subject to public information.
- n Furthermore, the result of the public information shall be made available to the interested party for him to make any submissions he may wish.
- n Within twenty days of receipt of the submissions, the Local Corporation's technical and legal services shall issue a draft decision on the Environmental Rating.
- n The appropriate municipal body will make its decision concerning the environmental rating based on this proposal.

## TIME LIMIT FOR GRANTING

## INDUSTRY

Decree 50/2008 provides the following time limit for granting of the authorisations necessary for the construction and commissioning of electricity generation plants and their connecting installations:

- n One month to obtain recognition of the installation's status as a special scheme plant. No decision means that the application has been denied.
- n Two months to obtain administrative authorisation and project approval. No decision means that the application has been denied.
- n One month for the award of the project commissioning certificate.
- n One month for preliminary filing at the Registry of Special Scheme Energy Generation plants and one month more for the definitive filing.

In accordance with Law 2/2007, the maximum duration of the authorisation proceedings for special scheme installations envisaged under Article 2 of Royal Decree 436/2004 (now RD 661/2007) for the purpose of approving actions included under current plans or programmes, is three months. Once the said period has elapsed without notification of an express decision to the interested party, the application can be assumed denied on the basis of administrative silence.

When the said actions are not envisaged under current plans or programmes, the authorisation procedures will have a maximum duration of six months. Once the said period has elapsed without notification of an express decision to the interested party, the application can be assumed denied on the basis of administrative silence.

## TOWN PLANNING

According to Law 7/2002, the time limit for granting of the aforementioned urban planning authorisations is as follows:

- n That laid down in municipal by-laws for granting of building permits, which in no case may exceed the maximum limit of three months. If the time limit expires, the permit shall be assumed to be granted.
- n Six months from submission of the application to decide on the Action Project.

If public information is to be conducted by the interested party, the duration will be two months from the date of submission to the Local Corporation of evidence that the public information process has concluded.

In both cases, expiration of the time limit shall mean that authorisation has been denied.

- n Final approval by the Regional Ministry responsible for urban planning matters of General Urban Development Plans and Inter-municipal Development Plans and innovations to the latter where applicable, must be expressly issued within a maximum of five months from the day following the filing of the complete dossier at the registry of the Regional Ministry.

If the maximum period elapses and no express notification is forthcoming, final approval can be assumed on the basis of administrative silence.

When the Local Corporation has not processed the application submitted by the interested party ex officio and is responsible for issuing the final approval of the Special Plan, this final decision must be made within a maximum period of three months. Once this period has elapsed, the applicant can assume that the application has been accepted unless the Regional Ministry issues a negative

## ENVIRONMENT

According to Law 7/2007, the time limit to decide on environmental prevention and control instruments is as follows:

- n Ten months from submission of the application to decide on the Integrated Environmental Authorisation. If no decision is issued within that time, the application shall be deemed denied.
- n Eight months to decide on the Unified Environmental Authorisation.

This period may be reduced to six months in the case of abbreviated proceedings.

In both cases, if no answer is forthcoming by the established deadline, the application can be assumed denied.

- n Three months from the date of valid submission of the documentation required for the Environmental Rating. Once this time limit has expired, the application shall be assumed accepted on the basis of administrative silence.

report.

When the Local Corporation has not processed the application ex officio and the Regional Ministry is responsible for issuing the final approval, a decision must be made within three months of resubmission of the application. Once this period has elapsed the application shall be deemed accepted unless it affects structural planning and has to do with Sectoral Plans.

## FEES

### INDUSTRY

Regarding industrial matters, we should note that no fees have been established at regional level for the processing of authorisations granted by the Autonomous Community.

### TOWN PLANNING

In matters regarding urban planning, we should note that no fees have been established at regional level for the processing of authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the local corporation where it is proposed to locate the plant.

Therefore, one must look to the regulation established by the by-laws of each municipality.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

### ENVIRONMENT

Regarding environmental matters, we should note that no fees have been established at regional level for the processing of authorisations granted by the Autonomous Community.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

### TOWN PLANNING

### ENVIRONMENT



In the case of low-voltage electrical installations, certain documents prepared by the authorised installer must be submitted.

RD 1027/2007 adopting the Regulation of Thermal Installations in Buildings provides that the documentation for commissioning must be submitted by the installation firm. These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

Moreover, RD 2060/2008 approving the Regulation of pressure equipment, requires that the documentation submitted for commissioning be issued by an authorised installation firm.

# **AUTONOMOUS COMMUNITY OF ARAGON**

## AUTONOMOUS COMMUNITY OF ARAGON

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of Aragon, the following regulatory provisions are in force which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) plants using renewable energy sources.

- n **Decree 93/1996** of 28 May 1996 regulating the authorisation procedure applicable to special plants for research and development of wind turbines.
- n **Decree 279/1995** of 19 December 1995 regulating the authorisation procedure applicable to electricity generation plants.
- n **Legislative Decree 1/2004** of 27 July establishing the 2004 Fee Act of Aragon.
- n **Order of 8 October 2003** regulating the verification procedure for compliance with the industrial safety conditions for low voltage electrical plants.
- n **Order of 7 November 2006** laying down the supplementary rules for the processing and awarding of administrative authorisations for solar photovoltaic energy plants connected to the electricity grid (as set out in the Order of 1 April 2009).
- n **Order of 7 November 2005** laying down the supplementary rules for the processing and connection of certain special scheme electricity

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of Aragon:

- n The Town Planning Act of Aragon, **Law 3/2009** of 17 June 2009.
- n Municipal by-laws which may have been enacted by Local Governments.

#### ENVIRONMENT

Besides the State legislation, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of Aragon:

- n **Decree 45/1994** of 4 March 1994 regulating the environmental impact assessment procedure.
- n **Decree 34/2005** of 8 February 2005 laying down the technical regulations for overhead electrical installations with the aim of protecting birds.
- n The Environmental Protection Act of Aragon, **Law 7/2006** of 22 June 2006.
- n **Legislative Decree 1/2004** of 27 July establishing the 2004 Fee Act of Aragon.
- n **Order of 4 April 2006** laying down the general technical criteria for the environmental impact assessment procedure applicable to wind plants and wind projects.

generation plants and groups of the latter to distribution grids.

- n **Order of 25 June 2004** regulating the administrative procedure applicable to solar photovoltaic energy plants connected to the electricity grid (as set out in the Order of 1 April 2009).
- n **Order of 18 November 2002** regulating the verification procedure for energy efficiency and industrial safety conditions for thermal installations in buildings.
- n **Decree 348/2002** of 19 November suspending the approval of new Strategic Wind Plans.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 71(48) of the Statutes of Autonomy of Aragon, approved by Organic Law 5/2007 of 20 April 2007, gives the **Autonomous Community of Aragon** exclusive competences over industrial matters, except where National competences apply for reason of security, health or defence interests.

Article 75(4) gives the Autonomous Community of Aragon competences to implement and enforce legislation regarding energy matters which, in any case, includes: the regulation, inter alia, of generation, storage, distribution and transmission activities of all forms of energy, including hydroelectric resources, natural gas and liquefied gases; granting of authorisations for existing plants where they are confined to the territory of the Community and their use does not affect any other Autonomous Community;

### TOWN PLANNING

Article 71(8) and (9) of the Statute of Autonomy of Aragon, approved by Organic Law 5/2007 of 20 April 2007, confers exclusive competence on the **Autonomous Community of Aragon** in respect of town and country planning.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of protection of the environment.

Article 71(22) of the Statute of Autonomy of Aragon, approved by Organic Law 5/2007 of 20 April 2007, confers exclusive competence on the **Autonomous Community of Aragon** to legislate additional basic rules regarding environmental and landscape protection.

Article 75(3) gives the Autonomous Community of Aragon competences to implement and enforce environmental protection legislation.

supply quality and energy efficiency and participation in national energy sector regulatory bodies and state planning affecting the territory of the Autonomous Community and in the authorisation proceedings relating to energy generation and transmission affecting the territory of Aragon or where the energy is intended for use outside of this territory.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

Decree 348/2002 of 19 November 2002 suspending the approval of new Strategic Wind Plans remains in force at this time. Therefore, admission of new strategic wind plan applications is suspended in order to allow for the analysis and adaptation of regional objectives having regard to electricity generation from wind energy, rationalisation of the latter's development and assurance of its compatibility with the transmission capacity available in the electricity grid at any given time.

Notwithstanding the foregoing, we are not aware of any regulatory review being undertaken in this connection.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

The Autonomous Community of Aragon does not have its own regulations governing the authorisation of electrical plants in lieu of the authorisation regime laid down in national regulations, but rather has specific rules regulating different aspects of that sphere of authorisation.

Therefore, regardless of the particulars outlined below, the

### TOWN PLANNING

The following town planning authorisations are required for the construction of electricity generation plants using renewable energy sources and associated facilities:

- n Town planning permit.

### ENVIRONMENT

The following environmental authorisations are required for the construction of electricity generation plants using renewable energy sources and associated facilities:

- n **Environmental Impact Statement** (Environmental Impact Assessment) in the cases listed in Annex II of

provisions of RD 1955/2000 are applied by default and the following authorisations are generally applicable to **electricity generation plants and their connection facilities**:

- n **Administrative Authorisation** regarding the basic project for the plant.
- n **Approval of the final design**, referring to the specific project allowing the owner to build the plant.
- n **Start-up permit** permitting the operation of the plants and their commercial exploitation once the project is executed.

In the case of generation facilities whose capacity does not exceed 50 MW, RD 661/2007 requires the following authorisations:

- n Recognition of the plant's status as a special scheme plant.
- n Filing at the Registry of Special Scheme Generation Plants.

Pursuant to the Order of 8 October 2003, the building of LV facilities does not require administrative authorisation. However, the owner of the plant must provide the administration with verification of compliance with the industrial safety conditions applicable to the facility in question.

Pursuant to the Order of 25 June 2004, **photovoltaic plants connected to the low voltage electricity grid** must have the following authorisations before they can be established:

- n Administrative authorisation and project approval.
- n Start-up authorisation.
- n Recognition of the plant's status as a special scheme plant.

- n Special use authorisation if located on non-developable land (as per Article 31 of Law 3/2009).

- n Opening permit in cases where the activity is not considered unpleasant, unhealthy, harmful or dangerous.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n Special use authorisation if located on non-developable land.

Law 7/2006.

This authorisation is likewise required in the cases listed in Annex III when so determined by the environmental body in each case.

The following types of plants are included in Annex II:

- Combustion plants with thermal combustion capacity over 50 MW.
- Construction of overhead lines over 15 kilometres in length for the transmission of electricity whose voltage is 220 kV or more.
- Overhead lines over 3 kilometres in length for the transmission of electricity constructed in areas designated under Council Directive 79/409/EEC of 2 April on the conservation of wild birds and Council Directive 92/43/EEC of 21 May on the conservation of natural habitats and of wild fauna and flora or in wetlands included on the Ramsar Convention list.
- Plants harnessing wind for the generation of energy (wind farms) with 25 or more wind turbines or which are located less than 2 kilometres from another wind farm.
- Wind farms with more than 10 wind turbines built in areas designated under Council Directive 79/409/EEC of 2 April on the conservation of wild birds and Council Directive 92/43/EEC of 21 May on the conservation of natural habitats and of wild fauna and flora or in wetlands included on the Ramsar Convention list.
- Hydroelectric energy plants built in areas designated under Council Directive 79/409/EEC of 2 April on the conservation of wild birds and Council Directive 92/43/EEC of 21 May on the conservation of natural habitats and of wild fauna and flora or in wetlands included on the Ramsar Convention list.

n Filing at the Registry of Special Scheme Plants.

Regarding the building of plants or groups of photovoltaic generators (solar farms) whose total capacity is between 100 kWA and 1 000 kWA, the Order of 7 November 2005 refers to the Order of 25 June 2004 having regard to the authorisation procedure, meaning that the said plants require the same authorisations just referred to (administrative authorisation, and project approval, as well as the Start-up authorisation).

The Order of 7 November 2005 concerning the authorisation procedure for the building of plants or groups whose capacity exceeds 1 000 kWA, and any other electricity generation plants it is intended to register under the special scheme, refers back to the national legislation (RD 1955/2000).

Pursuant to Decree 279/1995, the following authorisations are needed for the establishment of wind farms:

- n Approval of a Strategic Wind Plan.
- n Administrative Authorisation.
- n Start-up permit.
- n Recognition of the plant's status as a special scheme plant.
- n Filing at the Registry of Special Scheme Plants.

For the implementation of Special Wind Farms, Decree 93/1996 requires the following authorisations:

- n Administrative Authorisation.
- n Start-up permit.
- n Recognition of the plant's status as a special scheme plant.
- n Filing at the Registry of Special Scheme Plants.

Convention list.

- Electricity generation plants using solar energy to generate for sale to the grid built in especially sensitive areas designated under Council Directive 79/409/EEC of 2 April on the conservation of wild birds and Council Directive 92/43/EEC of 21 May on the conservation of natural habitats and of wild fauna and flora or in wetlands included on the Ramsar Convention list.

The following types of plants are included in Annex III:

- Industrial installations for the transmission of gas, steam and hot water; transmission of electricity by means of overhead lines over 3 kilometres in length (projects not included in Annex II).
- Hydroelectric power plants (when, according to Annex II, these are not required for any of the works entailed in plant construction).
- Wind farms not included in Annex II.
- Electricity generation plants using solar energy for sale to the grid when these are not included in Annex II and cover a surface area of over 10 hectares.

n **Integrated Environmental Authorisation** in the cases listed in Annex VI of Law 7/2006 which includes combustion plants with a thermal combustion capacity of over 50 MW.

n **Environmental permit for classified activities** which is mandatory in cases where the activity is considered unpleasant, unhealthy, harmful or dangerous, unless it is subject to the Integrated Environmental Authorisation.

n **Operating permit** for activities subject to the Environmental Impact Statement, the Integrated Environmental Authorisation or the Environmental permit for Classified Activities.

Having regard to **non-industrial thermal installations in buildings**, excluding installations whose thermal capacity is under 5 kW and hot water installations where water is heated by means of instantaneous heaters, accumulation heaters or immersion heaters when the capacity of each of these is 70 kW or less, and also excluding so-called pre-installations (pipes, tubing and other climate control devices) where concrete specifications have not been established for the thermal generators to be installed, are subject to the provisions laid down in the Order of 18 November 2002 provided that the application for the commissioning certificate for new plants is subject to **verification of compliance with energy efficiency and industrial safety conditions**.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

Pursuant to the Order of 25 June 2004, the corresponding provincial Industry, Trade and Tourism Service is the administration competent to grant authorisations for the construction of **photovoltaic plants connected to the LV electricity grid**.

Also, given that the Order of 7 November 2005 refers to the Order of 25 June 2004, the corresponding Provincial Industry, Trade and Tourism Service is likewise the administration competent to grant authorisations for the construction of plants or **groups of photovoltaic generators** (solar farms) whose total capacity exceeds 100 kWA and is under 1 000 kWA.

Pursuant to Decree 279/1995, the following authorities are competent to grant the authorisations needed to build **wind farms**:

- n The Department of Economy, Finance and Public Works to approve the Strategic Wind Plan.
- n The Director-General of Industry and Trade at the

### TOWN PLANNING

The authority competent to grant planning permits is the **Local Corporation** of the municipality where the plant is located.

The authority competent to grant Special Authorisation for construction on non-developable land is likewise the Local Corporation (Article 32).

### ENVIRONMENT

The authority competent to grant the Environmental Impact Statement is the competent environmental body which, in accordance with Article 2 of Decree 45/1994, is the Department of the Environment.

The Aragon Institute for Environmental Management is the body competent to grant the Integrated Environmental Authorisation.

The Local Corporations concerned are competent to grant the environmental permit for classified activities and the operating permit.



Department of Economy, Finance and Public Works to grant the rest of the authorisations.

Having regard to the authorisations required for the **building of Special Wind Plants**, in accordance with Decree 93/1996 the Directorate-General of Industry and Trade at the Department of Economy, Finance and Public Works of the Government of Aragon is the competent authority to issue such authorisations.

Lastly, we should note that the Directorate-General of Industry and Energy is responsible for recognition of the plant's special scheme status and its filing at the Registry of Special Scheme Plants.

The administration competent to grant the authorisation for operation of thermal energy installations in buildings is the Provincial Service of the Department of Industry, Trade and Development or the authorised Control Bodies.

## INFORMATION MEASURES

### INDUSTRY

In accordance with Royal Decree 1955/2000 which is applicable by default, administrative authorisation applications pertaining to electricity generation plants must be subject to public information for 20 days in the Official Gazette of La Rioja and also in one of the region's largest circulation dailies.

Also, the decision authorising such plants must be published in the Official Journal of La Rioja and communicated to the different administrations, bodies or, as the case may be, public service or general interest firms which took part or may have taken part in the procedure.

The procedure laid down in Decree 279/1995 for granting of authorisations to build and operate wind farms, provides for the following information measures:

n First of all, the processing application for the

### TOWN PLANNING

According to Law 3/2009, special authorisation applications for building on non-developable land, together with their compulsory documentation and mandatory reports, are subject to public information for a period of 15 calendar days.

### ENVIRONMENT

Pursuant to Article 30 of Law 7/2006, **environmental impact studies**, together with their projects, are subject to public information within the framework of the project approval process if the said process requires public information.

When the decision-making procedure does not require public information, the decision-making body shall forward the environmental impact study and the rest of the documentation comprising the file to the environmental body within fifteen days from the reception of the application. The said environmental body then submits the file to public information through announcements, paid for by the developer, in the Official Gazette of Aragon and in the regional, district or local media for a period of 30 days.

According to Article 31(4) of Law 7/2006, the Environmental Impact Statement is forwarded to the project developer and the decision-making body for inclusion in the administrative

Strategic Wind Plan must be subject to public information for a period of 30 days through an announcement in the Official Gazette of Aragon so that competing applications may be submitted.

- n The Administrative Authorisation applications for projects are likewise published in the Official Gazette of Aragon (Article 11) so that, during a 30-day period, other interested parties may submit competing applications.
- n The projects submitted must likewise be subject to public information for 30 days through publication in the Official Gazette of Aragon, the Official Gazette of the Province, bulletin boards of the local corporations affected and in a sufficiently popular newspaper.

Decree 93/1996 provides for Special Wind Plant projects to be publicised for a period of 20 days by publication in the Official Gazette of Aragon.

decision authorising or approving the project or activity and is to be published by the environmental body in the Official Gazette of Aragon.

Pursuant to Article 47 of Law 7/2006, the **Integrated Environmental Authorisation** is subject to public information through an announcement in the Official Gazette of Aragon and in the media. The duration of this public information formality will be no less than 30 days and will also apply to the environmental impact assessment for those procedures whose decisions are included in the Integrated Environmental Authorisation and for those substantive authorisation procedures which the plant requires.

Pursuant to Article 49 of Law 7/2006, the Integrated Environmental Authorisation must be notified to the interested parties, to the municipality where the plant is to be located and to the bodies which produced the binding reports and must be published in the Official Gazette of Aragon.

Pursuant to Article 65 of Law 7/2006, the file containing the **environmental permit for classified activities** is subject to public information for a period of 15 days through an announcement in the Official Gazette of Aragon and posting on the bulletin board of the Local Corporation. In cases where the activity is also subject to the Environmental Impact Assessment, the file is subject to public information together with the environmental impact study for a period of 30 days.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

The procedures for special scheme power generation plants have the same coordination systems as for the national regulations described, as these are the default options.

Among others there is a rule whereby in order to process the administrative authorisation, the competent authority must inform the different authorities, bodies or, where

### TOWN PLANNING

According to Law 3/2009, the special authorisation for use of non-developable land requires a report from the Provincial Planning Council affected.

Processing of the planning permit and the environmental permit for classified activities or opening is covered by a single decision, although separate files may be opened and processed for each administrative intervention.

### ENVIRONMENT

Regarding the **Environmental Impact Assessment** procedure, Law 7/2006 provides for the following coordination measures:

- n First of all, the Public Administrations responsible for environmental protection and foreseeably affected local corporations must be informed, both to determine whether it is necessary to subject the action to an

applicable, public service or general interest undertakings, of any part of the plant that could affect property or rights for which they are responsible.

Moreover, should it prove necessary to conduct an environmental impact assessment of the plant, this is to be done in conjunction with the public information procedure for the administrative authorisation of the plant. In such cases an Environmental Impact Statement must be forthcoming before the Administrative Authorisation is granted.

Having regard to the processing of files of groups of photovoltaic generators, the Order of 7 November 2005 provides that the municipal building permit or favourable planning report issued by the Local Corporation where the plants are located must accompany the authorisation application (Article 6(1)).

In this same connection, the Order of 7 November 2006 regarding solar photovoltaic energy plants connected to the electricity grid provides that the municipal permit or, failing that, support documentation showing that the permit application was filed, must be submitted together with the application for consideration under the special scheme.

Decree 279/1995 and Decree 93/1996 require the Provincial Service to request a report from the Local Corporations affected and from the Departments of Agriculture and the Environment and Land use Planning, Public Works and Transport, and from any other Department of the Regional Government of Aragon or body that it considers affected, in order to process authorisations for the building of Wind Farms and Special Wind Plants (Article 13 of Decree 279/1995 and Article 6(1) of Decree 93/1996).

Regarding the authorisation procedure for overhead electricity lines, Decree 34/2005 provides a special requirement for a report issued by the competent environmental body.

Environmental Impact Assessment (in the cases described in Annex III) and to determine the breadth and degree of detail of the information which needs to be included in the Environmental Impact Study.

- n Furthermore, Law 7/2006 provides that the Environmental Impact Study be subject to public information within the framework of the project approval procedure if the Study requires public information.
- n Also, the Law provides for consultation with the Local Governments which could be affected by the project during the public information period and the gathering of any reports that may be mandatory according to sectoral environmental regulations and which must be issued by governmental bodies or entities of the Autonomous Community of Aragon.
- n Lastly, a substantive authorisation cannot be granted without a prior Integrated Environmental Assessment.

Law 7/2006 provides for the following coordination tools having regard to the **Integrated Environmental Authorisation**:

- n First of all, it requires that the developer request information on the Integrated Environmental Authorisation procedure and that prior enquiries be made by the governmental bodies of the Autonomous Community of Aragon whose competences could be affected.
- n Law 7/2006 provides that the developer request a Planning Compatibility Report from the Local Corporation where the plant is to be located before submitting his application for the Integrated Environmental Authorisation.
- n Law 7/2006 requires the competent environmental body to forward a copy of the file to the other Autonomous Communities which could be affected by the plant, to the governmental bodies of the Autonomous

Community responsible for making decisions regarding matters within their purview, to the Provincial Land Use Planning Commission if the latter is required to issue an opinion on the authorisation of construction on non-developable land and to other Administrations (including Local Corporations affected and Water Authorities) so that they may issue the pertinent reports.

- n It likewise provides that, in cases where the Government of the Autonomous Community of Aragon is responsible for drafting the Environmental Impact Statement and the plant is subject to the Integrated Environmental Authorisation, the procedure for granting of this authorisation must include the Environmental Impact Assessment except as regards objections.

In these cases, if the plant also requires a substantive authorisation, the competent environmental body must forward the draft proposal of the Integrated Environmental Authorisation to the Administration responsible for granting the substantive authorisation so that it may formulate arguments or observations on the substance of the Environmental Impact Statement. In the event of disagreement between the decision-making and the environmental permit bodies of the Autonomous Community, the Governing Council of the Autonomous Community of Aragon shall decide.

- n The Law also provides that in cases where the environmental body of the General State Administration is responsible for drafting the Environmental Impact Statement, the Integrated Environmental Authorisation may only be granted once the said Statement has been issued.
- n Also, Law 7/2006 provides that the procedure for the issuance of the Integrated Environmental Authorisation shall replace the procedure for awarding of the environmental permit for classified activities. In such cases a municipal report, which is mandatory and binding, is required on the suitability of the plant for its

intended aim.

Also, Law 7/2006 provides the following coordination tools within the framework of the **environmental permit for classified activities** procedure:

The issuance of reports which, pursuant to sectoral regulations, must be drawn up by the bodies, services or organisations of the Government of the Autonomous Community of Aragon and Aragon's Institute for Environmental Management when the project has an impact on an environmentally sensitive area.

Also, in the case of activities subject to an Environmental Impact Assessment, the environmental permit for classified activities shall include the content of the Environmental Impact Statement.

Law 7/2006 also provides that the procedure for granting of this Integrated Environmental Authorisation replaces the procedure for the environmental permit for classified activity.

Within the framework of the procedure for the awarding of the **start-up permit**, in cases where the activity has been subject to the Environmental Impact Assessment procedure or the plant subject to the Integrated Environmental Authorisation, the environmental body of the Autonomous Community must issue its own Verification Certificate as well as a report.

Lastly, environmental permits for classified and opening activities may be decided jointly with the planning permit.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

Processing of the authorisations needed for the establishment and commissioning of generation plants follows the procedure laid down in national law and we therefore refer to the analysis made in that connection to determine the procedure to follow in the Autonomous Community of Aragon.

### TOWN PLANNING

The applicable legislation provides no specific procedure, technology or capacity depending on the nature of the plant to be built, .

The procedure for obtaining a **planning permit** is regulated in a general way in Law 3/2009, and consists of

### ENVIRONMENT

The applicable legislation provides no specific procedure, technology or capacity depending on the nature of the plant to be built, and so the general procedure laid down in that legislation is applicable to the granting of these authorisations.

The procedure for obtaining the **Environmental Impact**

Regarding the technologies for which a specific procedure has been established, we should note the following particularities:

- n The following procedural formalities regulated by the Order of 25 June 2004 are envisaged for **photovoltaic plants connected to the low voltage grid and plants or groups of photovoltaic generators (solar farms) whose total capacity exceeds 100 kWA up to a maximum of 1 000 kWA**:
  - The procedure is initiated when the interested party makes an application accompanied by several documents including the requisite technical project (plants with a rated output of up to 10 kW) or technical report (plants with a rated output of over 10 kW and below 100 kW).
  - On the basis of the documentation submitted, the competent Provincial Service shall rule on the preliminary administrative authorisation process and approve the project or technical report which will enable construction to begin.
  - The owner of the photovoltaic plant submits his application for inclusion in the special scheme to the corresponding Territorial Service together with the rest of the necessary documentation. The said Service, in turn, forwards the file to the Directorate-General for Energy and Mines which decides on the application for inclusion and preliminary filing at the Registry of Special Scheme Plants.
  - Once the photovoltaic plant is built, the owner files for the Commissioning Certificate which is issued by the Provincial Service.
  - The Provincial Service refers the Commissioning Certificate and the contract for connection to the distribution grid to the Directorate-General for Energy and Mines, which decides on final

the following steps:

- n The process is initiated then the interested party submits an application (together with a suitable technical project drafted by a competent professional and, as the case may be, endorsed by the corresponding Professional Association).
- n Issue of reports by the competent bodies within ten days.
- n The Local Corporation issues a decision.

However, for exact details of the procedure, it is necessary to examine the regulations laid down in the municipal by-laws.

The procedure for obtaining **special authorisation for use of non-developable land** is regulated in Article 32 of Law 3/2009, and consists of the following steps:

- n The process commences when the interested party submits an application to the Local Corporation.
- n The application and accompanying documentation are subject to public information for 15 calendar days.
- n The application and accompanying documentation are subject to a report by the competent Provincial Town Planning Council within two months.
- n Final decision issued by the Municipal Corporation.

If the Local Corporation fails to act within three months from the date of application, the interested party is allowed to personally initiate the public information procedure and forward the documentation directly to the Provincial Town Planning Council while informing the municipal authorities.

**Statement** is regulated in Law 7/2006, and consists of the following steps:

- n In the cases described in Annex II of Law 7/2006, the environmental body will hold preliminary consultation sessions with the Public Administrations with competences in matters of environmental protection, with local governments and with foreseeably affected public or private natural or legal persons and shall determine the breadth and level of detail of the information to be contained in the Environmental Impact Study.
- In the cases described in Annex III of Law 7/2006, after consultation with the Public Administrations responsible for environmental protection, with local governments and with foreseeably affected public or private natural or legal persons, the environmental body shall issue its decision concerning the need to subject the project to Environmental Assessment and concerning the content and level of detail of the Environmental Impact Study.
- n Once it has been determined that the project and its content must be subject to an Environmental Impact Assessment, the developer must submit the complete documentation of the project along with the corresponding Environmental Impact Study.
- n The environmental impact study, along with the project, is subject to public information within the framework of the project approval procedure.
- n Once that formality has concluded, the decision-making body will forward the complete dossier, including the result of public information, to the environmental body.
- n When the substantive procedure does not include the public information formality, the decision-making body must forward the environmental impact study and all other documentation to the environmental body which, in turn, must subject it to public information.

- registration in the Registry of Special Scheme Plants.
- n The authorisation procedure for the building of **Wind Farms** is described in Decree 279/1995 and consists of the following steps:
  - Filing of an application to the Regional Ministry of Economy, Finance and Public Works for the processing of the Strategic Wind Plan.
  - The application is subject to public information to allow for the submission of competing applications.
  - The Department of Economy, Finance and Public Works requests whatever reports are required from the Departments of Agriculture and the Environment, Land use Planning, Public Works and Transport, the Local Corporations affected and any other department which could have an interest.
  - The Director-General of Industry and Trade then issues a proposal and the Regional Minister of Economy, Finance and Public Works takes the decision concerning the Strategic Wind Plan application.
  - Then the interested party submits the Administrative Authorisation application to the Director-General of Industry and Trade of the Department of Economy, Finance and Public Works.
  - The authorisation application is published in the Official Gazette of Aragon and competing applications may be submitted during a period of 30 days.
  - Once that period has expired, the applicant(s) submit(s) the plant project, a technical-economic feasibility study, a study of the project's environmental impact and, where appropriate, evidence of its conformance to the Strategic Wind

- n Once the environmental body has received the environmental impact study, the latter must collect the reports it deems appropriate in each case. In any case, the environmental body must consult with the local governments which could be affected by the project.
- n Lastly, the Environmental Impact Statement is issued.

The procedure for granting of the **Integrated Environmental Authorisation** is found in Law 7/2007 and consists of the following steps:

- n First, the developer may request information regarding the procedure from the environmental body, in which case the latter will conduct preliminary consultations with the administrative bodies of the Autonomous Community whose competences could be affected. It will then notify the developer of these results so that he can draw up the Integrated Environmental Authorisation application.
- n The developer must first request a report from the Local Corporation where the plant is to be built certifying that the project complies with the planning.
- n An application is submitted to the environmental body of the Autonomous Community.
- n The competent environmental body must subject the file to public information.
- n Concurrently with the public information process, the environmental body requests reports from the corresponding administrations (including the Local Corporations affected and Basin Organisations). The Provincial Land Use Planning Commission will issue its report when called upon to give an opinion on authorisation to build on non-developable land.
- n Based on the result of the public information process and the reports, a draft decision is compiled indicating the conditioning factors arising from the reports issued and a hearing is arranged to allow interested parties to

Plan, to the competent Provincial Service of Economy, Finance and Public Works.

- Projects submitted are subject to public information for 30 days.
  - Concurrently, the Provincial Service requests reports from the Local Corporations affected and from the Departments of Agriculture and the Environment, Land Use Planning, Public Works and Transport and from any other Department of the Regional Government of Aragon or institution it considers to be affected.
  - Once the public information period has concluded and reports have been received, the Provincial Service issues a report on the file.
  - The file is then forwarded to the Directorate-General of Industry and Trade of the Department of Economy, Finance and Public Works, which has one month in which to make its decision. Should the decision lay down special conditions, these must be accepted by the beneficiary.
  - Application for the Start-up permit which is issued by the Department of Economy, Finance and Public Works.
  - Once the Start-up permit is obtained, application is made for registration of the plant at the Registry of Special Scheme Plants.
- n The authorisation procedure for **Isolated Wind Plants** is regulated under Decree 93/1996 and consists of the following steps:
- The interested party submits the Administrative Authorisation application to the Director-General of Industry and Trade of the Department of Economy, Finance and Public Works.
  - Once the application is declared admissible, the

make submissions.

- n In the event of disagreement, the submissions are forwarded to the bodies which issued the reports so that they can respond as they deem fit.
- n The Administration issues its final decision to either grant or deny the Integrated Environmental Authorisation with notification to the interested parties, the municipality where the plant is located and the body issuing the binding reports. The decision is then published in the Official Gazette of the Province of Aragon.

The procedure for the awarding of the **Environmental Permit for Classified Activities** is regulated in Law 7/2006, and consists of the following steps:

- n The developer submits an application to the Local Corporation.
- n A report is issued by the municipal town planning services.
- n Based on the application and the report, the Mayor of the Local Corporation decides to reject or process the application.
- n If he decides to process the application, it is subject to public information and the issuance of reports by the necessary local services depending upon the nature of the activity. These include a reasoned report by the Local Corporation on the establishment of the activity.
- n Once these reports have been drawn up, the file is sent to the district.
- n The district gathers the reports it deems appropriate along with mandatory reports pursuant to sectoral regulations which must be issued by the bodies, services or institutions of the Administration of the Autonomous Community of Aragon. In any case, a binding report is requested from Aragon's Institute for



interested party must submit the rest of the documentation listed in the Decree.

- The file is subject to public information for 20 days.
- Concurrently, the Provincial Service requests reports from the Local Corporations affected and from the Departments of Agriculture and the Environment, Land Use Planning, Public Works and Transport and from any other Department of the Regional Government of Aragon or institution it considers to be affected.
- Once the public information period has concluded and reports have been received, the Provincial Service issues a report on the file.
- The file is then forwarded to the Directorate--General of Industry and Trade at the Department of Economy, Finance and Public Works, which has 15 days in which to make its decision. Should the decision lay down special conditions, these must be accepted by the beneficiary.
- Application for the Start-up permit which is issued by the Department of Economy, Finance and Public Works.
- Once the Start-up permit is obtained, application is made for registration of the plant at the Registry of Special Scheme Plants.

Having regard to **low voltage generation plants**, we should note that the Order of 8 October 2003 provides for the following procedure to obtain the authorisation needed for operation:

- o Once the plant is completed, the Provincial Service of the Department of Industry, Trade and Tourism or Control Bodies are informed.
- o Once checked, the documentation is stamped and dated, and the notification is considered valid.

Environmental Management if the project has an impact on an environmentally sensitive area.

- n Once the foregoing reports are received, the District must issue a report rating the activity project and this is forwarded to the Local Corporation, which decides on the environmental permit for classified activities.

The procedure for the awarding of the **Activity Commissioning Certificate** is regulated in Law 7/2006, and consists of the following steps:

- n The developer submits his application to the Local Corporation together with support documentation showing that the works and installations were executed in accordance with the provisions of the Integrated Environmental Authorisation or Environmental Permit for Classified Activities.
- n The Local Corporation checks the documentation submitted and schedules meetings with the competent administrative bodies of the Autonomous Community of Aragon.
- n Verification Certificate drawn up.
- n Copy of Verification Certificate sent to the district which rated the activity. If the activity has been subject to an Environmental Impact Assessment procedure or the plants have been the object of the Integrated Environmental Authorisation, the documentation is forwarded to the environmental body of the Autonomous Community so that the latter can issue the Verification Certificate and a report. The Local Corporation is bound by the report issued by the environmental body when it proposes denial of the permit. If the environmental body's report is not

- o Once processed, the documentation is delivered directly to the installation firm.

Pursuant to the Order of 18 November 2002, **non-industrial thermal installations** do not require preliminary authorisation but rather only the Start-up Permit. However, in the case of new plants, the said Start-up Permit is subject to verification of compliance with energy efficiency and industrial safety requirements in accordance with the provisions of the said Order.

Specifically, according to the Order, the procedure varies depending on the plant's capacity:

- n For plants with rated thermal output exceeding 70 kW, a Technical Project must be submitted along with the application form. Once construction has concluded, the interested party applies for the Start-up Permit, to which end he must submit an Installation Certificate and initial Preliminary Inspection Certification. Lastly, the competent Provincial Service approves and stamps the Installation Certificate.
- n Installations with a rated thermal output between 5 and 70 kW require a Technical Report and Installation Certificate submitted together with the Start-up Permit application once construction is complete. Once the documentation has been checked, the competent Provincial Service or Authorised Control Body stamps the Installation Certificate.

forthcoming by the deadline date, a favourable ruling is assumed and the procedure continues its course.

- n Where appropriate, correction of shortcomings.
- n Decision by the Local Corporation.

Lastly, the technical specifications laid down in Decree 34/2005 apply to the establishment of the technical standards applicable to high voltage (1 kV) overhead installations whose administrative authorisation is the responsibility of the Autonomous Community of Aragon, for the purpose of mitigating the risk of electrocution or collision which they pose to birds.

Specifically, in accordance with that Decree, the owner of the installation must submit a copy of the final design to the body responsible for energy issues which issues a report within three months from the date of reception of the said project. Silence will mean a favourable report except for installations affecting protected Natura 2000 Network areas in which case silence will mean an unfavourable ruling. The report is binding when unfavourable or when it imposes conditions on the layout or characteristics of the planned installation.

## TIME LIMIT FOR GRANTING

### INDUSTRY

The time limit for the granting of industrial authorisations required for the building of electricity generation plants run by renewable energy sources and their associated facilities is established in Royal Decree 1955/2000 by

### TOWN PLANNING

According to Law 3/2009, the time limit for the awarding of **planning permits** for minor works is one month from the date of application and three months for all other planning permits.

### ENVIRONMENT

The maximum time allowed for the environmental body of the Autonomous Community of Aragon to issue the **Environmental Impact Statement** is four months from the conclusion of the public information procedure where this is

default as discussed earlier (3 months to take a decision and notify administrative authorisation means 3 months as from the submission of the application. The same time limit applies to the approval of the Building Project, and one month for the Start-up permit).

Regarding photovoltaic plants connected to the low-voltage electricity grid, the Order of 25 June 2004 does not provide a specific time limit by which to obtain the necessary authorisations, and therefore the general regime applies.

According to Decree 279/1995, the following time limit applies to granting of the authorisations required to build **Wind Farms**:

- n Six months for approval of the Strategic Wind Plan.
- n One month as from the submission of the file to the Directorate-General of Industry and Trade of the Department of Economy, Finance and Public Works.

However, according to Decree 93/1996, the time limit for approval of the authorisation for construction in the case of special wind plants is six months from the date of application. If no decision is forthcoming by the deadline date, the application shall be assumed denied.

Should a classified activity or opening permit also be required, the time limit for the all-inclusive decision is four months.

In general terms, if notice of granting of the permit is not forthcoming by the deadline date, the permit application shall be considered granted by reason of administrative silence.

The following time limit applies to **authorisation for use on non-developable land**:

- n If the Local Corporation fails to respond within three months from the date of application, the applicant may privately initiate the public information procedure under additional provision four and send the documentation directly to the Provincial Planning Council, with due notice to the municipal authorities.
- n If a further two months elapse with no decision from the municipality and no negative decision from the Provincial Planning Council, the authorisation shall be considered granted.

carried out by the environmental body, or from the date on which the environmental body receives the environmental impact study and full project documentation where the public information procedure is carried out by the decision-making body.

If no decision is forthcoming by the legally established deadline date, the application shall be assumed denied by virtue of administrative silence.

The time limit for granting of the **Integrated Environmental Authorisation** is 10 months from the date of application. If no decision is forthcoming by the deadline date, the application shall be assumed denied by virtue of administrative silence.

The time limit for granting of the **environmental permit for classified activity** is four months from the date of application. If no decision is forthcoming by the deadline date, a favourable ruling is assumed provided that the activity rating report is favourable.

The time limit for granting of the **activity commissioning certificate** is one month from the date of application unless the activity is subject to the Environmental Impact Assessment or the Integrated Environmental Authorisation in which case the limit is two months.

If no decision is forthcoming by the deadline date, the application shall be assumed granted.

## FEES

### INDUSTRY

Legislative Decree 1/2004 of 27 July 2004 establishing the 2004 Fee Act of Aragon regulates a fee for services relating to the planning of activities in the fields of industry, energy, metrology, mining and trade, in respect of which the taxable events include, inter alia, the processing and approval of strategic plans; authorisations, commissioning, filing at the different Registries of industrial, energy,

### TOWN PLANNING

For urban planning purposes we should note that no fees have been established at regional level for the processing of authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

### ENVIRONMENT

Regarding environmental matters, we should note that according to Additional Provision Three of Law 7/2006, fees shall be chargeable for performance of actions and the provision of administrative services in connection with the procedures provided therein, which fees shall be approved by the Autonomous Community of Aragon or local institutions

metrological, mining and trade installations and enlargements, improvements and modifications thereof.

The amount of the fee is determined on the basis of the value of the machinery installed.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the local corporation where it is proposed to locate the plant.

Therefore, one must look to the regulation established under the by-laws of each municipality.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

as the case may be.

The cited Additional Provision also provides that the Autonomous Community of Aragon must establish a fee for the performance of the actions and services provided for environmental rating, but we have no knowledge of any specific legislation implementing the said fees pursuant to that Additional Provision.

However, we should note that Legislative Decree 1/2004 of 27 July 2004 approving the 2004 Fee Act of Aragon does envisage a specific fee for administrative services in connection with environmental protection and fees for administrative services for the environmental rating of classified activities.

It specifically provides for a fee for administrative services relating to environmental protection, in respect of which the taxable events include the Environmental Impact Assessment and the Integrated Environmental Authorisation.

The amount of the fee is determined on the basis of the budget for material execution of the project.

Moreover, Legislative Decree 1/2004 regulates a fee for administrative services for the environmental rating of classified activities in respect of which the taxable event is the provision of services by the competent bodies of the Administration of the Autonomous Community of Aragon and administrative actions for the environmental rating of activities subject to an environmental permit for classified activities.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

According to the Order of 8 October 2003 regulating the verification procedure for industrial safety conditions of low-voltage electricity plants, the application for the start-up permit is submitted by the authorised installer who built the installation.

### TOWN PLANNING

### ENVIRONMENT

The order of 18 November 2002 regulating the procedure requires the submission of certain documentation drawn up by an authorised installer for operation.

# **AUTONOMOUS COMMUNITY OF THE CANARY ISLANDS**

## AUTONOMOUS COMMUNITY OF THE CANARY ISLANDS

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of the Canary Islands, the following regulatory provisions are in force which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) plants using renewable energy sources.

- n The Canary Island Electricity Act, **Law 11/1997** of 2 December 1997.
- n **Decree 32/2006** of 27 March 2006 regulating the construction and operation of wind farms within the Autonomous Community of the Canary Islands.
- n **Order of 15 November 2006** regulating the technical-administrative conditions pertaining to wind plants located in the Canary Islands.
- n **Decree 141/2009** of 10 November 2009 regulating administrative procedures relating to the building and commissioning of electricity plants in the Canary Islands.
- n **Decree 216/1998** 20 November 1998 regulating the organisation and operation of the Registry of Electricity Generation Plants.
- n **Decree 154/2001** of 23 July 2001 laying down the procedure for the commissioning of industries and

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of the Canary Islands:

- n **Legislative Decree 1/2000** of 8 May 2000, Consolidated Text of Land Use Planning and Planning of Protected Natural Areas of the Canary Islands.
- n **Law 19/2003** of 14 April establishing the General Planning Guidelines and Tourism Guidelines in the Canary Islands.
- n **Decree 55/2006** of 9 May 2006 approving the Regulation of Procedures pertaining to the instruments of the Canary Island planning system.
- n **Decree 183/2004** of 21 December 2004 adopting the Management and Execution Regulation for the planning system of the Canary Islands.
- n Municipal by-laws.

#### ENVIRONMENT

The following regulatory provisions shall be applicable within the territorial limits of the Canary Islands:

- n **Law 11/1990** 13 July 1990 on Prevention of Ecological Impact in the Canary Islands.
- n **Decree 182/2006** of 12 December 2006 determining the competent environmental body and the integrated environmental authorisation procedure.
- n **Law 1/1998** 8 January 1998 on Public Performances and Classified Activities.

industrial plants.

## REGULATORY COMPETENCES

### INDUSTRY

The Spanish State is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 30(26) of the Statutes of Autonomy, approved by Organic Law 10/1982 of 10 August 1982 and amended by Organic Law 4/1996 of 30 December 1996, confers exclusive competence on the Autonomous Community of the Canary Islands in respect of energy generation, transmission and distribution.

Moreover, Article 32(9) of the Statutes of Autonomy of the Canary Islands confers competence for legislative implementation and execution regarding energy matters.

### TOWN PLANNING

Article 30(15) of the Statutes of Autonomy of the Canary Islands, approved by Organic Law 10/1982 of 10 August 1982 and amended by Organic Law 4/1996 of 30 December 1996 confers exclusive competence on the Autonomous Community of the Canary Islands in respect of land use and coastal planning, urban development and housing.

### ENVIRONMENT

The Spanish State is competent to lay down the basic rules on matters of protection of the environment.

Article 32(12) of the Statute of Autonomy of the Canary Islands, approved by Organic Law 10/1982 of 10 August 1982 and amended by Organic Law 4/1996 of 30 December 1996, confers exclusive competence for legislative implementation and execution in respect of environmental protection, including dumping, within the territorial limits of the Autonomous Community of the Canary Islands.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED



## INDUSTRY

In accordance with Law 11/1997 and Decree 141/2009, electricity generation plants in the Canary Islands require the following authorisations:

- n Administrative Authorisation for the construction of electricity plants of 1 kV or more and for generation plants requiring administrative authorisation.

Special scheme generation plants are exempt from that formality when the specific national regulation so indicates, as are private high and medium voltage plants for use by or distribution to a single customer.

- n Commissioning authorisation for plants requiring and not requiring authorisation.
- n Filing at the Registry of Electricity Generation Plants.

Decree 32/2006 of 27 March 2006 regulates the construction and operation of wind farms within the territorial limits of the Autonomous Community of the Canary Islands whose output exceeds 10 kW and which are connected to the electricity distribution grid and requires the following authorisations for the construction of electricity generation plants using wind energy:

- n Decision allocating output as per the public call.

A public call allocating output is not necessary for the repowering of existing farms in the terms laid down in Article 7 of the said Decree or for the construction of wind plants connected to electricity grids and devoted to research and technological development or those associated with isolated energy storage systems.

These plants do however require all the other authorisations.

## TOWN PLANNING

The following planning authorisations are needed for the construction of all types of new plants and power lines:

- n Town planning permit.
- n Territorial Action Project or Land Classification where the proposed plant is located on non-developable land.

A Territorial Action Project is required for exceptional implementation and for reasons of public or social interest for works, structures and facilities needed for the implementation of energy activities which must necessarily be located on rustic land not classified for environmental protection or whose nature renders them unsuitable for urban or developable land, provided that the said implementation is not specifically prohibited by planning regulations.

The Land Classification procedure must be followed to validate a concrete construction project on or objective use of a specific lot, not prohibited on rustic land. Land Classification is not necessary when the rustic land is rural or agricultural provided that there is detailed planning for such land.

Furthermore, according to Article 63(8) of Legislative Decree 1/2000, the construction of electricity plants powered by photovoltaic, wind or any other form of energy from endogenous renewable sources may be authorised by means of Land Classification provided that this is not expressly prohibited in the Island Planning Scheme, Territorial Planning Schemes or Natural Protected Area Planning Schemes applicable to the area where construction of the plant is intended

These plants must comply with the requirements laid down in this regulation which include maximum output of 1.5 MW, occupation of less than 10% of

## ENVIRONMENT

In accordance with the above-cited regulation, the construction of electricity plants and transmission lines requires the following environmental authorisations:

- n Basic Ecological Impact Assessment where projects are totally or partially financed with funds from the Canary Island Exchequer unless these are built on urban land or where the agreement or decision establishing cooperation or subsidising makes a reasoned exemption.

Projects to be built in Ecologically Sensitive Areas.

- n Detailed Ecological Impact Assessment in the case of activities listed in Annex I of the Law or Annex II activities in an Ecologically Sensitive Area.

For the purposes of this study, Annex I activities include thermal power plants and other combustion plants with output between 15 and 75 MW and power lines carrying voltages of over 66 kV.

Annex II includes power lines carrying voltages over 20 kV.

- n Environmental Impact Assessment when Annex III projects or activities are carried out.

For the purposes of this study, Annex III activities include thermal power plants and other combustion plants with output over 75 MW and land use changes that entail the elimination of plant cover consisting of shrubs or trees and pose a potential risk to general interest infrastructures of the Autonomous Community of the Canary Islands, and in any case when such land use changes affect more than 25 hectares of surface area.

In addition to these, plants so requiring according to basic national legislation will be subject to an

- n Administrative authorisation and approval of the final design.
- n Commissioning Certificate.
- n Filing at the Registry of Special Scheme Plants (Article 14 of Decree 32/2006).

Apart from that, we should note that Special Scheme production plants also require recognition of their status as special scheme plants (RD 661/2007).

The national legislation applies to the construction of low voltage electricity generation plants, which does not require authorisation for construction but does require it for commissioning.

In the case of thermal energy generation plants (heating and/or cooling), we should note that the rules applying to this kind of plant (when the energy produced is put to industrial use or when it is used in buildings) do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

total land surface area of the holding and less than 15% of the surface area actually under cultivation.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n Territorial Action Project or Land Classification when the proposed plant is located on rustic land and as dictated by the impact of the plant.

Environmental Impact Assessment.

Depending on the ecological importance of the project, the Canary Island Government reserves the right to subject it to a Special Assessment.

- n Integrated Environmental Authorisation: when so required under the Pollution (Integrated Prevention and Control) Act, Law 16/2002, as described in the analysis of the national legislation.
- n Classified Activity Permit: Irrespective of the terms of the list appended to Decree 2414/1961, which is applicable until such time as the list of classified activities of the Autonomous Community of the Canary Islands is regulated, Law 1/1998 provides that, in any case, electricity, gas, steam and hot water generation, transmission and distribution shall be included in this list.

Depending on the purpose of the energy produced (industrial or domestic use), thermal energy generation plants using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

Decree 141/2009 provides that Administrative, Commissioning and Final Design Authorisations shall be granted by the Management Centre of the Regional Ministry responsible for energy matters.

### TOWN PLANNING

The authority competent to grant planning permits is the Local Corporation of the municipality where the plant is located.

In cases where the Territorial Action Project procedure is applicable because

### ENVIRONMENT

The following administrations are responsible for granting the environmental authorisations listed below:

- n The Ecological Impact Statement for projects subject to the Basic Ecological Impact Assessment is issued by the administrative body acting as the project developer

Having regard to the authorisations required for electricity plants using wind energy, in the case of tender procedures the Regional Minister in charge of energy matters is responsible for approving the framework and issuing calls for proposals and also grants the authorisations mentioned in the foregoing section.

According to Decree 216/1998, the filing of plants at the Registry of Special Scheme Generation Plants is the duty of the Director-General in charge of energy matters.

the plant is located on rustic land, the Canary Island Government itself is responsible for reviewing the Project.

In the case of small energy plants or plants of scant territorial importance, the Island Council is the competent body to approve the Territorial Action Project.

The Island Council in question is likewise competent to issue the Land Classification as required.

unless it affects an ecologically sensitive area, in which case that responsibility will lie with the Regional Ministry of the Environment.

- n The Ecological Impact Statement for projects subject to the Detailed Ecological Impact Assessment is issued by the Regional Ministry of the Environment unless it affects an ecologically sensitive area, in which case that responsibility will lie with the Canary Island Planning and Environmental Commission.
- n The Ecological Impact Statement for projects subject to the Environmental Impact Assessment is issued by the Canary Island Environmental Commission. This does not apply to cases where the intervention of the Canary Island Government is envisaged.
- n The Regional Ministry of the Autonomous Community's Public Administration responsible for environmental matters is competent to process and decide on the Integrated Environmental Authorisation.
- n The Mayor will have the authority to grant the Classified Activity Permit.

## INFORMATION MEASURES

### INDUSTRY

Regarding the procedure laid down in Decree 141/2009 for the authorisation of electricity generation, transmission and distribution plants, we should note that it provides for a 30-day public information procedure for administrative authorisation applications for ordinary regime transmission and generation plants and for special scheme generation over 100 KW. To that end, an extract of the said application must be published in the Official Gazette of the

### TOWN PLANNING

According to Legislative Decree 1/2000, the following information measures are envisaged in the approval process for Territorial Action Projects:

- n The application submitted is subject to public information for one month and a hearing of owners of the land included in the project and the owners of adjacent land.
- n Should the Project be subject to one of the ecological impact assessments provided for in Law 11/1990, it is likewise subject to the public information procedure.

### ENVIRONMENT

According to Law 11/1990, the ecological impact assessment procedure (of all three categories) includes the following information measures:

- n First of all, the environmental impact studies must be publicised for one month. The public information announcement must be placed in the Official Gazette of the Canary Islands and placed as an edict on the bulletin boards of the local authorities affected.
- n The decision concerning the ecological impact assessment must be published in the Official Gazette of

Canary Islands and on the official Web page of the Administrative Centre responsible for energy matters.

When the administrative procedure affects the islands which are not capitals, before publishing the public information announcement, the competent body must forward a copy of the plant project to the Island Government or Local Corporation, depending on whether the plant affects one or several municipalities, so that an extract of the project can be displayed on the bulletin board of the corporation affected.

Decree 32/2006 regulating the authorisations needed to set up wind farms provides that the procedure for the allocation of wind output be initiated ex officio through a public call for tenders by means of publication in the Official Gazette of the Canary Islands.

Furthermore, in view of the referral to Decree 26/1996, repealed by Decree 141/2009, and to the provisions of RD 1955/2000, the administrative authorisation application will likewise be subject to public information.

- n The decision approving the Territorial Action Project must be recorded or filed at the Land Registry.
- n In cases of facilities, equipment or industrial and energy structures or plants of small size or territorial scope, the public information procedure is reduced to 20 days.

Legislative Decree 1/2000 regulating the Land Classification approval procedure provides that the application must be publicised for a period of one month by the Island Council where the plant requires an ecological impact statement.

the Canary Islands when delivered by the Planning and Environmental Commission.

Decree 182/2006 regulating the procedure for the granting of the Integrated Environmental Authorisation provides for the following information measures:

- n First of all, it must be publicised for at least 30 days.

The public information announcement must be placed in the Official Gazette of the Canary Islands and must be placed in the form of edicts on the bulletin boards of those Local Corporations affected and at the local Island Council office.

However, if the activity is also subject to the substantive authorisation procedure and the environmental impact assessment, the Administration with substantive powers, in coordination with the environmental body, will arrange the public information process.
- n In addition, the grant of authorisation will be published on the Canary Island Government Web page, and the Regional Ministry responsible for environmental matters will place an announcement in the Official Gazette of the Canary Islands.

According to Law 1/1998, application for the classified activity permit shall be publicised for a period of 20 days through an announcement published in the Official Provincial Gazette, an announcement on the bulletin board of the Local Corporation in question and an announcement in the largest circulation newspaper of the Autonomous Community.

Information must also be circulated to neighbourhoods.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

The following coordination mechanisms are envisaged in the administrative authorisation procedure for generation plants regulated in Decree 141/2009:

- n In the case of ordinary regime generation plants, the planning classification of the land must be submitted.
- n When, in application of environmental impact regulations, the plant is subject to impact assessment, a list of the public administrations with which the environmental body consulted at the preliminary stage of the study must be submitted along with as many copies of the environmental impact study as necessary to comply with the environmental impact assessment legislation, and an additional copy for the Administrative Centre responsible for energy matters.
- n If the project is subject to a further public information requirement because the application was made in particular for a public utility declaration or because that is a requirement of the specific regulations concerning the ecological impact statement and/or the integrated environmental authorisation, these public information processes must be carried out jointly with that of the special authorisation.
- n Also, the Administrative Centre responsible for energy matters must contact the distributor and the different Administrations or Public Bodies whose property and rights are affected to request a report, which must be submitted within a maximum of 20 days, containing the submissions and technical considerations they deem appropriate within their purviews and expressing their assent or objection to

### TOWN PLANNING

The following coordination mechanisms are laid down in the procedure regulated under Legislative Decree 1/2000 for processing of the Territorial Action Project:

- n We should first of all note that the approval of the Territorial Action Project is a prerequisite for granting of the municipal permit when this instrument is required.
- n We should further note that reports are requested from the Local Corporations affected and, if applicable, from the Island Council and the Regional Government Ministries with competences by reason of the subject matter.
- n The project is also subject to the applicable ecological impact assessment.

The abbreviated procedure provides for the following coordination mechanisms for, inter alia, small-scale energy plants:

- n First of all, the Regional Ministry responsible for land use planning must determine the conditions of plants of small size and territorial scope.
- n Once this is determined, it is forwarded to the Island Council for processing.
- n The Island Council must also subject the project to the Basic Environmental Impact Assessment unless a higher impact assessment category is required.
- n Also, reports must be requested from the Local Corporations affected and the Island Council Departments with competence by reason of the

### ENVIRONMENT

Law 11/1990 provides for the following coordination mechanisms during the ecological impact assessment procedure:

- n First of all, the Ecological Impact Study must be submitted to the competent decision-making body for authorisation of the project, and the latter must publicise it.
- n Once this formality is completed, the project is forwarded to the acting environmental body together with the results of the public information procedure, if any, and the documentation deemed appropriate, for it to make a decision.
- n The acting environmental body may ask the forwarding body that is competent to grant authorisation for any clarifications that may be necessary to best judge the study.
- n The Ecological Impact Statement is a prerequisite for approval of the project subject to the ecological impact assessment procedure.

Law 16/2002 provides for the following coordination mechanisms for granting of the Integrated Environmental Authorisation:

- n It first of all provides that Administrative Authorisation must precede the substantive authorisation for industries and the municipal permit for classified activities.
- n Also, the following mechanisms are established for coordination between the environmental body and the decision-making body:
  - The decision-making body shall advise the

the requested authorisation.

- n In the case of transmission facilities, ordinary scheme generation plants or special scheme generation plants with output of over 100 kW, a report must be obtained from the Island Council in question as to whether the facility complies with island planning. This report is subject to the same time limits and effects as those indicated in the preceding paragraph.

Pursuant to Article 6(1) of Royal Decree 1747/2003, information must also be requested from the National Government in the case of ordinary regime generation plants or transmission facilities.

Having regard to the processing of the Administrative Authorisation and Project Approval, Decree 32/2006 regulating the installation of wind farms refers to Decree 26/1996, repealed by Decree 141/2009, and to Royal Decree 1955/2000, meaning that the coordination measures laid down in these regulatory provisions apply.

subject matter.

Regarding the Land Classification approval procedure, Legislative Decree 1/2000 and Decree 55/2006 provide for the following coordination mechanisms:

- n First of all, this approval must be obtained before the building permit can be granted where the regulations so require.
- n The procedure must be initiated by the Local Corporation, which must also report on the action's planning compliance.
- n Once the file is received by the Island Council, the latter requests the requisite mandatory sectoral reports and may even make the Land Classification subject to an ecological impact statement.

Having regard to building permits, the applicable regulations provide for the following coordination measures:

- n First of all, planning permits may not be granted without prior authorisation of the Territorial Action Project or the Land Classification where these are required.
- n Also, applications for planning permits on rustic land may not be accepted if submitted more than six months after the approval of the Territorial Action Project or the Land Classification where these are required.
- n Furthermore, the administrative reports of the municipal services must be issued during the processing, and likewise the preliminary reports or authorisations required from the administrative bodies of the Autonomous Community which are competent according to the sectoral legislation.

Administrative silence will mean approval

instructing environmental body when a project authorisation application is filed at the registry of the decision-making body competent to process it.

- The environmental body will forward a copy of the file to the decision-making body with all the submissions for public information where the plant requires an environmental impact assessment aside from the Integrated Environmental Authorisation.
- The decision-making body will forward the results of the public information to the environmental body along with all other documentation deemed appropriate in order to take the best possible decision.

- n The environmental body must forward the file to and request a report from the Local Corporation where the plant is to be located and from the Coastal District and other bodies or entities so that they have the opportunity to give an opinion on matters within their purview.

Lastly, regarding processing of the Classified Activities Permit, Law 1/1998 establishes the following coordination mechanisms:

- n First of all, the activity permit must be acquired before the building permit if the plant is specifically intended for an activity governed by this Law.
- n Also, provisional permits may not be granted without the activity having been classified.
- n Lastly, before issuing the permit, the Local Corporation must forward the file to the Island Council for it to issue its classification report on the activity.

of the Territorial Action Project or of the Land Classification only if the building permit application indicates that the plant complies with applicable planning regulations. The Local Corporation must note such compliance when issuing the building permit.

Where the building permit is granted by virtue of administrative silence, the developer must give notice when construction commences.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

According to article 141/2009, the procedure for obtaining the authorisations needed to install generation plants regulated therein consists of the following steps:

- n Step I (Administrative Authorisation). The process begins when an application is filed at the Administrative Centre responsible for energy matters.

This Centre will analyse the documentation and if it observes shortcomings it will request their correction.

Then, reports are requested from the distributor and the different Administrations or Public Bodies affected so that they can offer any submissions and technical considerations that they deem appropriate.

In the case of generation plants of over 100 kW, a report must also be requested from the Island Council regarding the plant's compliance with island planning.

Once these reports are received, they will be forwarded to the developer who will have 10 days in

### TOWN PLANNING

In the first place, we should note that the procedure for granting of the building permit is laid down in Decree 183/2004 and consists of the following steps:

- n The developer initiates the process by filing an application at the Local Corporation.
- n The Local Corporation will examine the documentation and, if necessary, instruct the interested party to correct the application within 10 days.
- n During the processing of the file, reports or preliminary authorisations will be requested as applicable from the competent administrative bodies of the Autonomous Community pursuant to the sectoral legislation unless the developer furnishes evidence of already having obtained these.
- n The municipal services will then issue their administrative reports.
- n Once these actions have concluded, a decision will be made.

### ENVIRONMENT

According to Law 11/1990, processing of the ecological impact assessment will follow the steps described below:

Before the process begins, developers may make prior enquiries to the administration and apply for the environmental certificate, which will indicate the environmental considerations regulated by other laws.

The developer initiates the process by submitting the Impact Study to the administrative body competent to authorise the project.

This body will check whether the assessment category is correct. If it is, it will publicise the project, along with the Impact Study, for one month.

Once the public information period has concluded, the decision-making body will forward the Study, along with the results of the public information process, to the acting environmental body.

This body may ask the forwarding body and the developer for any clarifications it deems appropriate and will then make a decision and issue the Ecological Impact

which to give his assent or state any objections. Absence of comment will be interpreted as assent.

If he does offer objections, these will be forwarded to the Administration for the latter to either accept or reject.

The application will also be publicised for 30 days. Any submissions received will be passed on to the applicant so that the latter may respond.

Once these actions have concluded, the Administrative Centre will make its decision on Administrative Authorisation.

- n Step II (Commissioning): Once the plant is built, an application for commissioning must be made to the Administrative Centre responsible for energy matters.

The Administrative Centre has 40 days to make its decision on the application.

The procedure for obtaining the authorisations needed to build electricity generation plants which use wind energy whose output exceeds 10 kW is regulated in Decree 32/2006 of 27 March 2006 and the Order of 15 November 2006 and consists of the following steps:

- n Step I (allocation of output). This first step is initiated with the official announcement of a public call for tenders by the Regional Ministry competent in energy matters with a view to covering the maximum output

The procedure for approval of the Territorial Action Project is regulated in Legislative Decree 1/2000 and consists of the following steps:

- n It is initiated at the request of a private party at the Regional Ministry competent in matters of land use planning.
- n The Regional Ministry will publicise the application and give a hearing to owners of the land included in the project and the owners of adjacent land.
- n Reports will then be requested from the Local Corporations affected and, where applicable, from the Island Council and the Regional Ministries competent in these matters, to be delivered within one month.
- n The project will be subject to whatever ecological assessment is applicable.
- n Lastly, where the Government judges that the activity is of public or social interest, it will approve the Territorial Action Project, giving its reasons.

In the case of assets, equipment, or small-scale structures or facilities with limited territorial scope, the abbreviated procedure shall apply, consisting of the following steps:

- n It is initiated at the request of a private party who files his application with the Regional Ministry competent in land use planning.
- n This Regional Ministry has two months to decide if the project in question is indeed small-scale with limited territorial scope.
- n If it is, the file will be forwarded to the Island Council for processing and decision.

Statement.

According to Law 182/2006, the procedure for the granting of the Integrated Environmental Authorisation follows these steps:

The application is submitted to the Regional Ministry responsible for environmental matters which will acknowledge receipt within 10 days and request the correction of any errors.

If the application is submitted to the decision-making body which is competent to approve the Project, the latter will forward it to the competent environmental body.

The application will be publicised for at least 30 days. The public information step will be carried out by the decision-making body where the project is also subject to an environmental impact assessment.

Once the public information period has concluded, the decision-making body will forward the file to the Regional Ministry responsible for environmental matters.

The latter will then forward the file to the Local Corporation and to the Coastal Demarcation Authority for comments on aspects within their purview.

Discretionary reports will also be requested from other bodies or entities so that they can voice their opinion on matters within their purview.

Before drawing up its draft decision, the Regional Ministry, through the competent environmental body, will arrange a hearing for interested parties giving them 15 days to make whatever submissions they deem appropriate.

If there are submissions, these will be forwarded, together with the draft decision, to the bodies responsible for issuing the binding reports for comment.



of the different electricity systems.

The call's rules must be publicised with an indication of the deadline for the submission of applications.

Once the deadline has elapsed, the decision regarding the allocation of output is taken by the Regional Ministry competent in energy matters.

This stage is not necessary in the cases indicated above.

- n Step II (Administrative Authorisation): Once output is assigned, application is filed for administrative authorisation and project approval which, as already mentioned, follows the procedure laid down in Decree 26/1996, repealed by Decree 141/2009 and by RD 1955/2000.

- n Step III (Commissioning): Commissioning is in two steps, one provisional and the other final.

Provisional commissioning lasts for three months. Once testing has concluded and it is filed at the registry of generation plants, the owner of the plant will apply for final commissioning.

Pursuant to Decree 141/2009, the commissioning of generation plants which can be built without prior authorisation, require only notification to the Management Centre competent in energy matters with evidence of compliance with the requirements laid down in Article 15 of the aforementioned Decree. This documentation will be processed by the Management Centre, which will thus verify the legality of the plant and allow it to begin operation.

Regarding the registration of generation plants, we should note that Decree 216/1998 provides for the following

If it is not considered to be small-scale, the general procedure will continue.

If no decision is forthcoming within two months, the project will be considered small-scale for processing purposes and the applicant will be authorised to collect the documentation submitted in order to resubmit it directly to the Island Council along with proof of the fact that no decision was forthcoming.

- n The Island Council will take the following actions after receiving the documentation:
  - It will subject the project to a Basic Ecological Impact Assessment unless a higher level of assessment is required due to its nature.
  - It will publicise the project and give a hearing to owners of the land included in the project and the owners of adjacent land.
  - It will request reports from the Local Corporations affected and from the Island Council Departments with competences by reason of the subject matter.
- n A decision will be taken once the public or social interest of the project is determined.

Lastly, the procedure for the approval of the Land Classification is laid down in Legislative Decree 1/2000 and consists of the following steps:

- n It commences with an application by the interested party to the Local Corporation.
- n Initial municipal step: The Local Corporation has a maximum of one month to issue a report on the

And lastly, in the light of the reports, a decision will be issued regarding the integrated environmental authorisation.

The procedure for granting of the Classified Activity Permit is laid down in Law 1/1998 and consists of the following steps:

- n The developer submits an application to the Mayor.
- n Unless the permit is expressly denied for reasons of municipal competence (town planning or municipal by-laws), a general public information procedure is initiated ex officio, and also a neighbourhood information and notification process.
- n The competent municipal experts, in accordance with the nature of the activity, will issue their activity report in the light of the above public information.
- n Once these actions are concluded, the file will be forwarded (in any case before two months have elapsed from the date of application) to the Island Council for it to issue its Classification report.

That report must be issued by the Island Council within one month and then forwarded to the Local Corporation for decision.

If this report is not issued, the procedure will go forward. However, if the report is issued late and is unfavourable, it will be binding on the Local Corporation provided that it is received before the decision on the file has been made.

- n Finally, the mayor will decide on the activity permit application.

procedure for special scheme generation plants:

- n Preliminary filing at the Registry of Special Scheme Plants: This is done ex officio within one month of the award of status as a special scheme generation plant.
- n Permanent filing at the Registry of Special Scheme Plants: The developer will submit his application to the Directorate-General competent in energy matters unless the plant registration has to be filed by the National Administration. The Directorate-General shall decide on the application within one month.

Ordinary scheme plants must be filed at the Registry of Generation Plants within one month from the date of commissioning. The Directorate-General competent in energy matters will analyse the documentation and request corrections where necessary. It will then decide on filing at the Registry.

As noted, the building of thermal energy generation plants does not require preliminary authorisation but only notification to the competent body of the Autonomous Community before it is put into service.

In particular, according to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, a project is required for the commissioning of newly built thermal installations and the modification of already existing ones where the rated thermal output to be installed for heating or cooling is over 70 kW. Where the rated thermal output to be installed for heating or cooling is

action's compliance with the general planning.

If the report is unfavourable, the interested party will be informed so that he can take appropriate action.

If the report is not forthcoming within one month, the interested party may assume the report to be favourable and resubmit his application to the Island Council.

- n Island Council decision process: Once the file is received, the Island Council will request the requisite mandatory sectoral reports and, where an ecological impact statement is required, will publicise it for one month.
- n Once the preceding formality is concluded, the Island Council will decide on the application.

Notwithstanding the above, we should note that the Island Council is competent to take the decision regarding the permit in cases where the Local Corporation fails to send the Island Council the file for classification of the activity within two months of the date of application.

In these cases, the developer may inform the Island Council of the situation so that the latter can take over the municipal procedure and make the corresponding decision.

between 5 kW and 70 kW, a technical memorandum will suffice in lieu of the project. The installation certificate must be registered with the competent body of the Autonomous Community where the installation is located and the installation firm is required to submit certain documentation.

Once the documentation submitted has been checked, the installation certificate is registered by the competent body of the Autonomous Community and the installation may be put into service.

Presentation of the above documentation is not mandatory to demonstrate regulatory compliance to the competent body of the Autonomous Community in the case of heating or cooling installation with a rated thermal output of less than 5 kW, hot water installations using instantaneous heaters, accumulation heaters and immersion heaters where the rated thermal output of each individually or their sum is 70 kW or less, and solar systems composed of a single prefabricated element.

Pursuant to Decree 154/2001, in the case of thermal installations not installed in buildings, the commissioning of industrial establishments and plants which do not require preliminary administrative authorisation, the details and characteristics of the installation must be submitted, together with all necessary technical documentation, to the Directorate-General of Industry and Energy. The voucher attesting to the

submission of these documents will serve as proof that the interested party has complied with his administrative obligations for the purpose of initiating the activity.

## TIME LIMIT FOR GRANTING

### INDUSTRY

According to Decree 141/2009, the time limit for the granting of the authorisations regulated therein is as follows:

- n The Administrative Authorisation must be granted by the Management Centre competent in energy matters within three months in the case of plants for which there is no public information requirement, and six months for all other plants, of the date of submission of the application.

If no express decision or notification is forthcoming within these time limits, the authorisation is deemed to be denied.

- n Decisions concerning the commissioning of generation plants and transmission facilities must be taken within 40 days of the date of application. The application shall be considered denied if no decision is forthcoming within the given time limit.

Commissioning of plants which do not require administrative authorisation simply requires prior notification to the Management Centre competent in energy matters.

Regarding the procedure for allocating wind output through a public call for tenders, Decree 32/2006 provides that a decision shall be taken and notice

### TOWN PLANNING

According to the Decree, the Mayor has three months from the formal presentation of the application to make his decision regarding the building permit.

If no decision is forthcoming within that time limit, the permit shall be considered granted by virtue of administrative silence. However, permits may not be considered granted by administrative silence if they conflict with applicable natural resource, town, land use or sectoral planning regulations.

Pursuant to Legislative Decree 1/2000, the Territorial Action Project must be approved within the following time limits:

- n Five months for major Territorial Action Projects. The application is deemed denied if no decision is forthcoming within that period.
- n Four months as from the reception of the file by the Island Council for a decision on small-scale Territorial Action Projects. If no decision is forthcoming from the Island Council, the application is deemed approved provided that use of the proposed site is not prohibited by law or by applicable town planning.

### ENVIRONMENT

According to Law 11/1990, the time limit for issuance of the Ecological Impact Statement on the ecological impact procedures regulated by this Law: is as follows:

- n One month for Basic Ecological Impact Assessments.
- n Two months for Detailed Ecological Impact Assessments.
- n Four months for Environmental Impact Assessments.

A favourable decision is assumed if the competent environmental body fails to issue the mandatory Ecological Impact Statement within the time limit established above, without prejudice to any administrative liability in this connection.

According to Article 12 of Decree 182/2006, decisions regarding the Integrated Environmental Authorisation shall be issued and notified within a maximum of 10 months as from the date of entry of the application was in the registry of the Regional Ministry responsible for environmental matters. Applications shall be considered denied if no express decision is forthcoming within the maximum

served within a maximum of six months of initiation of the procedure. If no express decision is forthcoming within that time limit, the request shall be deemed denied.

Lastly, we should note that the time limit for granting of the planning Classification is as follows:

- n Five months if the file is subject to public information.
- n Three months if it is not.

If no express decision is forthcoming within this time limit, the Land Classification shall be deemed granted provided that the use of the proposed site is not prohibited by law or by applicable town planning.

period of ten months.

According to Law 1/1998, we should note that the time limits for granting of the Classified Activity Permit are as follows:

- n Two months from the reception of the final classification report for granting by the Mayor.
- n Three months from the notification of subrogation due to inactivity for granting by the Island Council.

If no decision is forthcoming within those time limits, the permit shall be considered granted, with the following effects:

- n If the classification report is favourable or contingent upon compliance with certain measures, the permit is considered granted and, if applicable, subject to compliance with these measures.
- n If the site classification or report is unfavourable to the granting of the permit, it shall be considered denied.

## FEES

### INDUSTRY

At industrial level, Legislative Decree 1/1994 of 29 July 1994 adopting the consolidated text of applicable legal provisions regarding public fees and prices in the Autonomous Community, provides for an industrial fee for the provision of technical and administrative services.

The taxable events for this fee include Decisions regarding granting files and

### TOWN PLANNING

The establishment of plants on rustic land is subject to a charge that is set and collected by the Local Corporations. The minimum charge is 5% and the maximum 10% of the total budget of the proposed works. This charge may be paid in the form of land assignments in cases so determined by the Local Corporation (Article 62 of Legislative Decree 1/2000 of 8 May 2000).

### ENVIRONMENT

Decree 182/2006 allows for the charging of a fee for processing of the Integrated Environmental Authorisation, although this provision has yet to be implemented.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a

the authorisation or registration of industrial activities and of plants subject to safety standards and standardisation.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the establishment of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

One must therefore look to the regulations contained in the by-laws of each municipality.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

According to RD 1027/2007 approving the Regulation for Thermal Installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation for pressurised equipment and

### TOWN PLANNING

### ENVIRONMENT

supplementary thermal instructions and RD 842/2002 approving the Regulation for Low-Voltage Electrical Installations both require that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is required from the Administration.

# **AUTONOMOUS COMMUNITY OF CANTABRIA**



## AUTONOMOUS COMMUNITY OF CANTABRIA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of Cantabria the following regulatory provisions are in force, which mainly regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources.

- n The Public Fees and Prices Act of Cantabria, **Law 9/1992** of 18 December 1992.
- n **Decree 6/2003 of 16 January 2003** regulating electricity generation, transport and distribution plants within the limits of the Autonomous Community of Cantabria.
- n **Decree 19/2009** of 12 March 2009 regulating the establishment of wind farms within the Autonomous Community of Cantabria.
- n **Order 16/2008** of 15 May 2008 of the Regional Ministry of Industry and Technological Development regulating the administrative procedure for processing and authorising interconnected solar photovoltaic plants.
- n **Order of 17 October 2003** of the Regional Ministry of Industry, Labour and Technological Development laying down instructions for the application of the low-voltage Electro-technical regulation.

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of Cantabria:

- n The Land Act of Cantabria, **Law 2/2001** of 25 June 2001.
- n **Law 2/2004** of 27 September 2004 approving the Coastal Development Plan of Cantabria.

#### ENVIRONMENT

Besides the State legislation, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of Cantabria:

- n The Integrated Environmental Control Act of Cantabria, **Law 17/2006** of 11 December 2006.
- n **Decree 19/2010** of 18 March 2010 establishing the Regulation of Law 17/2006.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 24(31)(a) of the Statute of Autonomy of Cantabria, approved by Organic Law 8/1981 of 30 December 1981, as set out in Organic Law 11/1998 of 30 December 1998, confers exclusive competence on the **Autonomous Community of Cantabria** in respect of energy generation, distribution and transmission plants where the transmission remains within the Community and its exploitation does not affect another Autonomous Community.

Article 25(8) of the Statute of Autonomy confers competence on the **Autonomous Community of Cantabria** for legislative and material implementation in matters of mining and energy regulation.

### TOWN PLANNING

Article 24(3)(a) of the Statute of Autonomy of Cantabria, approved by Organic Law 8/1981 of 30 December 1981, as set out in Organic Law 11/1998 of 30 December 1998, confers exclusive competence on the **Autonomous Community of Cantabria** in respect of coastal planning, town planning and housing.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 25(7)(a) of the Statute of Autonomy of Cantabria, approved by Organic Law 8/1981 of 30 December 1981, as set out in Organic Law 11/1998 of 30 December 1998, confers exclusive competence on the **Autonomous Community of Cantabria** in respect of implementing legislation, regulatory competence and enforcement regarding environmental and ecosystem protection.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

Pursuant to Decree 6/2003 of 16 January 2003 regulating electricity generation, transmission and distribution plants within the territorial limits of the Autonomous Community of Cantabria whose exploitation does not affect any other

### TOWN PLANNING

For the construction of plants for generation of electricity using renewable energy sources and associated facilities, and the establishment of wind farms, the following

### ENVIRONMENT

Law 17/2006 of 11 December 2006 requires the following environmental authorisations for the construction of electricity generation plants using renewable energy sources and

Autonomous Community, electricity generation plants are included in the First Group and therefore require the following authorisations:

- n Administrative authorisation of the installation's draft project.
- n Authorisation of the final design.
- n Authorisation for plant operation or the commissioning certificate.

According to Decree 19/2009 of 12 March 2009 regulating the building of wind farms in the Autonomous Community of Cantabria, inland wind farms whose installed capacity does not exceed 50 MW require the following authorisations:

- n Allocation by public tender of the wind output needed to build the plant.

Output allocation is not required for the following wind plants:

- Experimental and research plants unless these entail the installation of more than five wind turbines or total output exceeds 3 MW.
- Those intended for self-consumption without connection to the electricity grid unless these consist of more than three wind turbines or output is in excess of 1 MW.
- Those interconnected with the distribution grid by means of a low-voltage connection and whose output is 100 kW or less.

- n Administrative authorisation.
- n Approval of the final technical design.
- n Commissioning Certificate.

The following authorisations are also required when these

planning authorisations are required:

- n Building permit.
- n Exceptional authorisation to build in the case of plants located on rustic land.

According to Decree 19/2009, wind farms are considered to be of public interest and may be authorised for placement on specially protected rustic land pursuant to Article 112 of Law 2/2001.

In the case of rustic land under ordinary protection, Article 113 of Law 2/2001 provides that, in the absence of more stringent specific provisions among the applicable town or country planning instruments, other activities or uses considered to be of public or social interest by the competent sectoral Administration may also be authorised, along with other industrial uses and structures whose location on rustic land is indispensable.

However, Law 2/2001 does not apply to plants intended for location on non-developable land forming part of the territory of any of the 37 coastal municipalities in the Autonomous Community of Cantabria, or to works, structures, uses, plants or activities intended for location in the easement area for protection of the public maritime-terrestrial domain (regardless of the planning classification of the land). These uses are subject to the general limitations regulated for each protection category provided under Law 2/2004 of 27 September 2004 approving the Cantabrian Coastal Development Plan.

Therefore, the authorisation envisaged under Law 2/2004 replaces the one provided for under Articles 112 and 113 of Law 2/2001 which is a prerequisite for the municipal license.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources

associated facilities:

- n An environmental impact assessment in the cases of projects, plants and activities listed in Annex B.

Annex B(2) includes the following plants for these purposes:

- Thermal and nuclear power stations and other combustion plants with a heat output of at least 50 MW.
- Industrial plants for the production of electricity, steam and hot water with a heat output exceeding 50 MW.
- Plants for the production of electricity, steam and hot water by means of solar energy when they occupy a surface area exceeding 1 hectare of land designated by planning authorities as rustic.
- Construction of overhead lines over 1 kilometre in length for the transmission of electricity whose voltage is 220 kV or more.
- Construction of overhead lines over 5 kilometres in length for the transmission of electricity whose voltage is 50 kV or more. Substations whose voltage is 50 kV or more.
- Plants utilising wind power to produce energy (wind farms) having 5 or more wind turbines with a total output of over 10 MW or situated less than 2 km from another wind farm.
- Hydroelectric energy generation plants with an output of 0.5 MW or more.

- n An Integrated Environmental Authorisation in the cases of projects, plants and activities listed in Annex A.

For these purposes Annex A includes the following combustion plants with thermal output greater than 50

plants are subject to the special scheme:

- n Recognition of the plant's status as a special scheme plant.
- n Filing at the Registry of Special Scheme Electricity Generation Plants.

Interconnected photovoltaic plants require the authorisations envisaged in Decree 6/2003 when their rated output exceeds 100 kW or where the connection is high or medium voltage even if output is below 100 kW.

However, low-voltage connection of photovoltaic plants with a rated output of 100 kW or less requires administrative authorisation, filing under special scheme energy generation and must submit an application for commissioning.

All other low-voltage generation plants are regulated under the Order of 17 October 2003 and by RD 842/2002 where authorisation prior to construction is not required and a simple application for commissioning is needed to operate it.

Finally, in the case of thermal energy generation plants (heating and/or cooling), we should note that the rules applying to this kind of plant (either where the energy produced is intended for industrial use or else where it is intended to supply services in buildings) do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n Exceptional authorisation to build in the case of plants located on rustic land.

MW:

- Ordinary or special scheme electricity generation plants that burn fossil, waste or biomass fuels.
- Co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by an undertaking, whether or not that is its principal activity.
- n Environmental Verification in the cases, plants and activities listed in Annex C. This annex is not limiting in nature and includes, inter alia, the following plants:
  - Industrial plants for the production of electricity, steam and hot water with a heat output exceeding 500 kW.
  - Construction of overhead lines over 1 kilometre in length for the transmission and distribution of electricity whose voltage is 12 kV or more.
  - Plants harnessing wind for the generation of energy (wind farms) whose total output exceeds 1 MW.

In addition to these, activities which could be unpleasant or cause a risk or harm to people, their property or the environment, and which do not require an integrated environmental authorisation or an environmental impact statement, do require environmental verification

- n Activity permit: Pursuant to Decree 19/2010, activities subject to the integrated environmental authorisation and the environmental verification, require an activity permit.
- n Opening permit: According to Decree 19/2010, all other activities which do not require an integrated environmental authorisation, integrated environmental assessment or an environmental verification, do require and opening permit.
- n Environmental compliance certificate: The environmental compliance certificate is a prerequisite to

engagement in any activity requiring an activity permit.

Depending on the purpose of the energy produced (industrial or domestic use), thermal energy generation plants using renewable energy sources require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictates.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Decree 6/2003 of 16 January 2003 regulating energy generation, transmission and distribution plants, the Directorate-General of Industry of the Regional Ministry of Industry, Labour and Technological Development has the competence to grant the industrial authorisations required.

According to Decree 19/2009 of 12 March 2009 regulating the establishment of wind farms in the Autonomous Community of Cantabria, the Directorate-General of Industry is likewise responsible for granting the necessary industrial authorisations but not for the allocation of output, which is decided by the Regional Ministry in charge of industry.

### TOWN PLANNING

The Administration competent to grant building permits is the competent **Local Corporation** where the plant is to be sited; this applies to electricity generation plants, thermal energy generation plants and associated facilities.

Pursuant to Article 115(1) of Law 2/2001, the Regional Planning Commission is competent to grant authorisation for the types of structures and uses permitted on specially protected rustic land.

Also, according to Article 115 of Law 2/2001, the following bodies are competent to grant authorisation for the types of structures and uses permitted on rustic land with normal protection:

- n The Local Corporation in municipalities with a General Plan duly informed by the Regional Planning Commission. The Commission's findings are binding when it proposes to deny authorisation on the basis of a specific infringement of the requirements and conditions laid down in the Law or in land use planning.
- n The Regional Planning Commission in municipalities with no such Plan.

Lastly, for authorisations on non-developable land in coastal municipalities, Article 27 of Law 2/2004 generally provides that Article 115 of Law 2/2001 will apply in

### ENVIRONMENT

Pursuant to the Law referred to in the foregoing, the following administrations have competence to grant these authorisations:

- n The Directorate-General of the Environment to issue the Integrated Environmental Authorisation, the Environmental Impact Statement and the environmental verification certificate for activities requiring the Integrated Environmental Authorisation.
- n The Local Corporation is competent to issue the activity permit for activities requiring the integrated environmental authorisation, the environmental impact assessment or environmental verification.

The Local Corporation is also competent to issue the opening permit and the favourable verification certificate for plants requiring an activity permit.

The environmental verification commission has the competence to issue the environmental verification report.

respect of competence. Also, irrespective of land planning classification, the Regional Commission has competence for works, structures, uses, plants and activities intended for location in the easement area for protection of the public maritime-terrestrial domain.

## INFORMATION MEASURES

### INDUSTRY

The following information measures are laid down in the procedure provided in Decree 6/2003 for the granting of the authorisations for the building of energy generation plants:

- n First of all, the application for Administrative Authorisation must be publicised for a period of 20 days through an announcement in the Official Gazette of Cantabria.
- n Also, the decision taken regarding this administrative authorisation must likewise be published in the Official Gazette of Cantabria and must be forwarded to the different administrations, bodies or, as the case may be, to the public or general interest service undertakings which took part or may have taken part in forwarding the decision to the interested party and the administrations affected.

In addition to the general information measures laid down in Decree 6/2009 for the authorisation of generation plants, the procedure envisaged for the establishment of wind farms in Decree 19/2009 provides for a public call for tenders for the allocation of wind output through an announcement in the Official Gazette of Cantabria.

### TOWN PLANNING

Article 116 of the Law provides for publicity of the application for authorisation on non-developable land with ordinary protection for a period of 15 days where the Regional Planning Commission has competence. This formality must be announced in the Official Gazette of Cantabria.

Also, according to Article 116 of the Law, where the Local Corporation is competent to grant authorisation on non-developable land with ordinary protection, a publicity period of not less than one month is mandatory. This formality must be announced in the *Official Gazette of Cantabria*.

### ENVIRONMENT

The following information measures are provided in Law 17/2006 and Decree 19/2010 for the granting of the aforementioned authorisations:

- n For the granting of the **Integrated Environmental Authorisation**, the application together with the environmental impact study, as the case may be, must be publicised for at least 30 days. This formality must be announced in the Official Gazette of Cantabria, on the institutional Web page and in a large circulation newspaper in the Autonomous Community of Cantabria.

Also, the decision granting the Integrated Environmental Authorisation must be published in the Official Gazette of Cantabria and on the institutional Web page.

- n Also, processing of the **environmental impact assessment** provides for the impact study to be publicised as part of the applicable procedure for authorisation of the plant.

However, if public information is not envisaged in the substantive procedure, the competent environmental body will publicise the environmental impact study directly for at least one month and not more than two through an announcement in the Official Gazette of Cantabria and on the institutional Web page.

The Environmental Impact Statement, if one is required, must likewise be published in the Official Gazette of

Cantabria.

- n The procedure in place for processing of **environmental verification** provides that the application for activity permits which require environmental verification be publicised for 20 days through an announcement in the Official Gazette of Cantabria and on the municipal bulletin board.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

The following coordination measures are envisaged in the general procedure for the authorisation of generation plants regulated under Decree 6/2003:

- n First of all, if the plant is subject to an environmental impact assessment, publicity and processing of an Environmental Impact Study, these are to be done jointly.
- n Administrations, bodies and, as the case may be, public or general interest service undertakings affected by the plant must also be informed of the application for administrative authorisation so that they can express their assent or objection to the said application.
- n Administrations, bodies and, as the case may be, public or general interest service undertakings affected by the plant must also be informed of the application for project approval so that they can establish the appropriate technical specifications.

The provisions of Decree 6/2003 apply to wind plants regulated by Decree 19/2009 having regard to administrative authorisation, project approval and commissioning, and therefore the same coordination mechanisms apply.

### TOWN PLANNING

According to Article 190 of Law 2/2001, where mandatory reports or authorisations are required from other public administrations during the permit procedure, the Local Corporation will forward the file to them so that they can make their decision within a maximum period of two months, after which such reports are deemed favourable and the authorisations granted.

Having regard to authorisation on non-developable land, according to Article 116 of the Law, where the Regional Planning Commission has competence, a preliminary report from the Local Corporation is required and the latter must then be informed as to the final decision.

Also, according to Article 116 of the Law, where the Local Corporation has competence to grant the authorisation on non-developable land, the application must be communicated to the Regional Planning Commission at the same time the public information period begins and it must issue its report within that same period.

Lastly, according to Article 27 of Law 2/2004, where works, structures, uses, plants and activities are intended for location in the easement area for protection of the public maritime-terrestrial domain, the Regional Town and Country Planning Commission, after receiving the completed documentation, shall forward it to the body of the General State Administration responsible for coastal

### ENVIRONMENT

According to Law 17/2006 and Decree 19/2010, the following coordination mechanisms are established for the granting of the aforementioned environmental authorisations:

- n First of all, as a general rule, permits needed for the execution of plans, programmes and projects, or for the establishment and operation of activities subject to any type of environmental control, may not be granted unless they have the integrated environmental authorisation, the environmental impact assessment or the environmental verification, as the case may be.
- n We should first of all note that, according to the applicable legislation, the **Integrated Environmental Authorisation** must be obtained before the requisite industrial authorisations may be granted.

Also, the procedure followed for the granting of the Integrated Environmental Authorisation replaces the procedure for the granting of the activity permit, except in the decision that the Local Corporation must issue, if any.

We should note that this particular procedure requires a municipal Planning Certification showing that the action complies with urban planning.

The application must also be forwarded to the other competent sectoral bodies so that they can determine

matters which, within one month, must issue its report on the definition of the interior limit of the sea coast, demarcation of the boundary line, maintenance of transit and sea access easements and the impact that the structures and the activities carried on there have on the integrity of public domain.

In turn, the Regional Town and Country Planning Commission must communicate its decision regarding the file to the competent body of the General State Administration within a maximum of 10 days.

whether the documentation is complete or needs to be corrected.

Also, reports must be requested from the bodies which need to issue an opinion regarding the different matters within their purview (including the Local Corporations themselves). These same bodies will also be provided with the submissions which may have been made by the interested party and will likewise be provided with the authorisation when it is issued.

- n We should note that, according to the regulations, the **environmental impact assessment** is processed by the decision-making body together with the substantive project which is the object of the Environmental Impact Study.

Provisions are in place which allow a preliminary consultation stage prior to submission of the environmental impact study, through which the developer may ask the Directorate-General of the Environment to define the scope of the study. To that end, the Directorate-General of the Environment will consult with the Public Administrations affected inviting any suggestions that they care to make.

Once the environmental impact assessment process is under way, the Public Administrations affected by the Project must be consulted and the mandatory reports required by the sectoral legislations in question must be requested.

- n Lastly, we should note that the following coordination mechanisms are envisaged for processing of any activity permit that requires the issuance of the **environmental verification** report.
  - The process is initiated at the Local Corporation which must ask the Commission for environmental verification to issue a binding report on the activity to be undertaken.



- Also a planning compliance certificate must be issued and the municipal technical services must issue an opinion on those elements of the activity or plant which are liable to cause a nuisance, risk or harm to people, their property or the environment, with indication of the protection measures which, in their opinion, should be adopted. These measures are then forwarded to the Commission for the environmental verification.
- The Mayor must also forward the file to the competent administrations, on the basis of the nature of the activity or projected plant for comment.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

According to Decree 6/2003 of 16 January 2003, the authorisation procedure for energy generation plants consists of the following steps:

#### n **Step I (Administrative Authorisation).**

- This is initiated when the interested party files an application to the Directorate-General of Industry.
- The application is publicised for 20 days by means of an announcement in the BOC (Official Gazette of Cantabria) together with the Environmental Impact Study if required.
- If submissions are made, these are forwarded to the applicant who then has 15 days to send any comments to the Directorate-General of Industry.
- In turn, the Directorate-General forwards this to the different administrations, bodies and, as the case may be, public or general interest service undertakings affected by the action so that they can express their assent or objection to the application filed.

### TOWN PLANNING

Pursuant to Article 190 of Law 2/2001, **permits** are granted according to the following procedural guidelines:

- n Applications are submitted at the Local Corporation.
- n Where mandatory reports or authorisations from other public administrations are required, the Local Corporation forwards the file to them.
- n Where the planning permit imposes special conditions which must be met at the affected lot, these may be recorded at the Land Registry.
- n Where construction projects affect a specific area or entail certain activities, the Local Corporations may require a study of the project's adaptation to its surroundings through a photo-composite simulation to check whether the planned structure complies with directly applicable rules and other planning guidelines, especially with regard to its adaptation to the surrounding environment and landscape. In these cases, a certificate issued by a competent expert is appended, furnishing evidence of the veracity of the study, the performance of fieldwork, the criteria used

### ENVIRONMENT

First of all, we should note that the procedure for granting of the **Integrated Environmental Authorisation** is found in Law 17/2006 and Decree 19/2010 and consists of the following steps:

- n The application is submitted at the Directorate-General of the Environment.
- n The latter then forwards the application to the competent sectoral bodies so that they can study the documentation and determine whether it is complete or needs to be remedied. If necessary, the file is returned to the applicant so that the latter can provide any missing information.
- n Once the application is complete it is publicised at the order of the Directorate-General of the Environment.
- n Once the publicity period has concluded, the bodies which must give an opinion on the different matters within their purview are required to issue mandatory reports (including the Local Corporations involved).
- n Once the mandatory reports are issued, or the period

- Any submissions are forwarded to the developer, who has 15 days to state his assent or any objections.
- If there are any objections, these are communicated passed on to the administrations, which have 15 days to either accept the objections or issue a new set of counter-objections.
- Once these actions have concluded, the Directorate-General makes its decision. However, if the plant is subject to environmental impact, the requisite environmental impact estimation or statement must be issued.
- The decision is published in the Official Gazette of Cantabria and notice is sent to the applicant and the administrations which took part or may have taken part in the process.

n **Step II (Project approval).**

- Once administrative authorisation is obtained, the holder of the authorisation, as the case may be, submits a project approval application to the Directorate-General of Industry.
- The Directorate-General of Industry will supply offprints of the project for remittal to the different administrations, bodies or undertakings whose property and rights are affected so that they can establish appropriate technical specifications within 20 days.

These specifications are not required where:

- a) the different administrations, bodies and undertakings referred to have agreed on general standards with the Directorate-General of Industry for the establishment of plants or the crossing or proximity of power lines to property, plants, works, services,

and the author and entity responsible for it.

According to Article 116 of the Law, the following procedure applies where the Regional Planning Commission is competent in granting **authorisation on non-developable land**:

- n Application filed at the Local Corporation by the interested party showing the characteristics of the site and the intended structure set out in a site plan, sufficient evidence that the requirements laid down in planning schemes or laws have been met, planned solutions regarding access and required services and proof that there will be no negative environmental repercussions and that notice has been served to neighbouring property owners.
- n Publicity of the application for a period of 20 days. This formality must be announced in the Official Gazette of Cantabria. Publicity is subject to all requirements laid down in the legislation on common administrative procedure.
- n Report from the Local Corporation.
- n Final reasoned decision and notification to the Local Corporation.

This authorisation is independent of the planning license which has its own specific set of regulations.

Pursuant to Article 116 of the Law, where the Local Corporation is competent in granting authorisation for construction on non-developable land, the application is included in the procedure followed to obtain a planning permit but with the following particularities:

- a. A publicity period of not less than one month is required. This formality must be announced in the *Official Gazette of Cantabria* and is subject to all other requirements envisaged in the legislation on [legislation on common administrative procedure](#).

for their emission has expired, the Directorate-General of the Environment will subject the documentation to an environmental assessment and then proposes a decision.

- n A hearing is arranged for all stakeholders, who are given 15 days to make the submissions they deem appropriate.
- n If there are submissions, these will be forwarded, together with the proposed decision, to the bodies responsible for issuing the binding reports for comment within 15 days.
- n Once the foregoing formalities have concluded, the Directorate-General of the Environment issues its decision regarding the Integrated Environmental Authorisation.

Where the plant applying for the Integrated Environmental Authorisation requires a substantive authorisation, the following particularities will be considered:

- n The application is submitted to the decision-making body responsible for project approval at the same time that an application is filed before the Regional Ministry of the Environment for the requisite integrated environmental authorisation.
- n Once the Directorate-General of the Environment has determined that the documentation submitted is complete, it forwards the latter to the decision-making body for public information.
- n Once the publicity formality has concluded, the decision-making body sends a copy of the submissions received to the Directorate-General of the Environment, following each of the procedures laid down in the applicable legislation for processing of the substantive authorisation and the integrated environmental authorisation.

The procedure laid down in Law 19/2010 for the

centres or areas referred to in section 2 of this Article.

- b) no response is received 20 days after remittal of the offprints and 10 days after re-filing the request, in which case it will be assumed that the technical specifications proposed by the applicant in the plant's final design have been approved.

- The applicant is informed of the specifications and has 15 days during which to either accept them or formulate the corrections deemed appropriate.
- If the applicant formulates corrections, these will be forwarded to the administration, body or undertaking which issued the requisite technical specification so that it can either express its agreement or amend them. If no new call for remedy of specifications is forthcoming from the administration, body or undertaking by the deadline date, it will be assumed that the applicant's response has been accepted.
- Once these formalities have concluded, the Directorate-General of Industry will issue its decision.
- If there is still disagreement between the applicant and an administration or body having regard to technical specifications, the Directorate-General of Industry may either decide to ratify the technical specifications proposed or, if it disagrees with the latter, send a motion for resolution to the Regional Minister of Industry, Labour and Technological Development for discussion at Governing Council level.

### n **Step III (Commissioning):**

Once the project is executed, a commissioning

- b. The application must be notified to the Regional Planning Commission at the same time as the public information period begins, for it to issue its report. If the Commission's report is not forthcoming within a month, it is assumed to be positive.
- c. Ruling approving, denying or establishing conditions for the petition.

Lastly, for authorisations on non-developable land in coastal municipalities, Article 27 of Law 2/2004 generally provides that the authorisation procedure laid down in Article 116 of Law 2/2004 will apply but with the following particularities:

- n Where the Regional Planning Commission is competent to grant authorisation, it has three months to issue its decision as from the date of filing of the complete dossier at the Registry of the Regional Town and Country Planning Commission.
- n Where the Local Corporation is competent to grant authorisation, the Regional Town and Country Planning Commission will have two months to issue its binding report as from the date of filing of the full set of documents at the latter's Registry.

The Local Corporation has one month to give its decision as from the issuance of the report by the regional body, or as from the due date for issuance of the said report.

Notwithstanding the above, irrespective of land planning classification, the Regional Commission has competence for works, structures, uses, plants and activities intended for location in the easement area for protection of the public maritime-terrestrial domain pursuant to Article 116(1) of Law 2/2001 with the following particularities:

- n The Regional Town and Country Planning Commission will have three months to issue its

**environmental impact assessment** of projects consists of the following steps:

- n The developer submits the documentation required pursuant to Article 56 of Decree 19/2010 to the decision-making body responsible for authorising or approving the project under study.
- n The latter then forwards the documentation to the Directorate-General of the Environment, which contacts the public administrations affected for their observations regarding the breadth and level of detail of the Environmental Impact Study.
- n The Directorate-General of the Environment then informs the developer as to the scope of the Study.
- n Once the study has been conducted, it is presented to the decision-making body for commencement of the publicity process together with the Project.
- n At the same time, the same affected public administrations which were consulted to determine the scope of the Environmental Impact Study are contacted and asked to submit whatever mandatory reports are necessary.
- n The decision-making body then issues a reasoned response to the submissions and observations made during the publicity and consultation steps.
- n Once these formalities are completed, the file is sent to the Directorate-General of the Environment for it to issue the requisite Environmental Impact Statement.

Having regard to the awarding of the activity permit and the issuance of the environmental verification report, Decree 19/2010 provides for the following procedure:

- n The process is initiated when the developer applies to the Local Corporation for an activity permit.
- n The Local Corporation must issue the municipal certification regarding the project's compliance with

certificate application is submitted to the Directorate-General of Industry.

The Directorate-General of Industry has one month to make the technical checks it deems appropriate and to then issue the commissioning certificate.

Decree 6/2003 provides that steps I and II can be processed jointly.

The procedure for the establishment of **wind farms**, regulated in Decree 19/2009, provides that the procedure for the granting of industrial authorisations is that laid down in Decree 6/2003.

However, where the plants require an allocation of output, it must be put to tender, which is initiated ex officio by call for proposals from the Regional Ministry competent in energy matters. The call must stipulate the deadline for submission and the announcement of the outcome of the allocation tender. The allocation of output is made by the Regional Minister competent in energy matters.

The Autonomous Community of Cantabria does not regulate the procedure for recognition of the plant as belonging to the special scheme or for filing in the Registry of Special Scheme Generation Plants and therefore RD 661/2007, whose procedure was described in the analysis of national law, applies.

Having regard to photovoltaic plants, we should note that Order 16/2008 distinguishes between plants with a rated output under 100 kW and a low-voltage connection and other plants.

The commissioning of these plants refers to RD 1663/2000 which defines the following procedure:

- n Once tests have been successfully performed by the authorised installer, the latter will issue a certificate showing the main characteristics of the plant and its successful test performance.

decision as from the date of filing of the complete dossier at the registry of the competent body.

- n Once the complete dossier is received, it is forwarded to the body of the General State Administration responsible for coastal matters, which has one month to issue its report on the definition of the interior limit of the sea coast, demarcation of the boundary line, maintenance of transit and sea access easements and the impact that the structure and its activities have on the integrity of public domain.
- n If no decision is forthcoming in the given time, the application shall be considered denied.
- n The Regional Town and Country Planning Commission must communicate its decision regarding the file to the competent body of the General State Administration within a maximum of 10 days.

urban planning. The permit will be denied if the certification deems the action to be non-compliant.

- n If it is in compliance, it is publicised.
- n Once the publicity formality has concluded, the municipal technical services issue reports analysing the action and arrange a hearing of the relevant administrations depending the nature of the projected action to allow them to comment.
- n Once submissions are received or the Local Corporation's deadline has expired, the file is forwarded to the Commission for environmental verification so that it can issue its report on the activity.
- n The Commission analyses the documentation and drafts a preliminary assessment of the project. This assessment is made available to the interested party for comment.
- n Then the Commission issues the requisite environmental verification report which is forwarded to the Local Corporation, which must then make its decision regarding the activity permit.

If no report is forthcoming from the Commission within one month following reception of the file, the Local Corporation may move the process forward and define the prevention and environmental protection conditions that the activity must meet.

Lastly, according to Decree 19/2010, the **Verification Certificate** is obtained by simply filing an application to the administration responsible for its issue. In the light of this application, the appropriate checks must be carried out and the Certificate issued within 30 days.

- n Once the plant is completed, the contract concluded and the certificate attesting to successful test performance has been filed, the plant owner may request connection to the grid from the distributor, for which purpose he must present the aforementioned certificate.
- n The distributor, at any time, may run a preliminary check of those elements which affect the regularity and safety of supply and in so doing will receive from the plant owner payment of the fees stipulated in the applicable legislation.
- n If no objection is made by the distributor within one month following the grid connection application, the owner of the plant may connect to the distribution grid.
- n In the first month of every year, the distributor will provide the competent governmental body and the National Energy Commission with a list of the plants commissioned within its territorial limits during the preceding year and for each will list the owner, sites and peak and rated output.
- n Should the distributor's check reveal a problem in the interconnection equipment or in the plant itself it will inform the owner of the plant, if appropriate, provided him with a sufficient amount of time to remedy the problem.

However, authorisations for all other photovoltaic plants follow the procedure laid down in Decree 6/2003.

Commissioning of all other generation plants with low-voltage connection is regulated by the Order of 17 October 2003 which provides for the following procedure:

- n Once the plant is established and all checks, and the initial inspection, if there is one, are positive, the authorised installer will contact the Directorate-General of Industry for filing at the corresponding

registry.

- n The Directorate-General of Industry will register the plant and provide the authorised installer with four copies of the installation certificate and one copy of the initial inspection certificate.
- n Of the four installation certificates, two are for the authorised installer and the remaining two are for the owner of the plant, who may keep one copy and deliver the other to the supplier.

There is a simplified procedure for low-voltage, single-phase electricity plants with a maximum admissible output of 10 kW or less, consisting of direct submission to the electricity supply company allowing the applicant to sign a contract and immediately begin supplying electricity.

And lastly, we should note that the Autonomous Community has not regulated the commissioning of thermal installations, and therefore the national regulations apply as explained earlier.

## TIME LIMIT FOR GRANTING

### INDUSTRY

According to Decree 6/2003, the following time limits are established for the granting of the industrial authorisations regulated therein for the construction of generation plants:

- n One month for the granting of the Administrative Authorisation as from the completion of the process laid down in Decree 6/2003 or as from the emission of the environmental impact Statement or Estimate if the plant so requires.
- The application shall be considered denied if no decision is forthcoming within the given time limit.
- n One month for Project approval as from the completion of the process laid down in Decree

### TOWN PLANNING

According to Law 2/2001, the time limit for the granting of work permits is as follows:

- n Three months for the granting of the permit from the date of application (one month in the case of minor works).
- n Four months for the granting of permits requiring mandatory reports from other public administrations.

In any event, as a general rule, if no decision is forthcoming within the time limits mentioned in the preceding paragraphs, the interested party may assume that his application has been accepted in the terms laid down in the legislation on common administrative

### ENVIRONMENT

According to Law 17/2006 and Decree 19/2010, the time limit for the issuance of environmental permits regulated therein is as follows:

- n Ten months for issuance of the **Integrated Environmental Authorisation** as from the date of submission of the application.
- If no decision is forthcoming within that time limit, the application is deemed denied.
- n Six months for issuance of the **Environmental Impact Statement** as from the date the complete dossier was received at the Directorate-General of the Environment from the body with authority to approve or authorise the

6/2003.

The application shall be considered denied if no decision is forthcoming within the given time limit.

- n One month for the granting of the commissioning certificate as from the date of application.

Having regard to wind plants, the time limit for the issuance of a decision on allocation of output is that laid down in the rules of the call for tenders.

procedure.

However, administrative silence shall not be taken to mean the granting of permits for activities contravening the planning legislation or development plans which present essential deficiencies that render them null or which in themselves constitute a clearly serious planning infraction.

Regarding authorisation on non-developable land, if no decision is forthcoming from the Regional Town and Country Planning Commission or, as the case may be, from the Local Corporation within three months as from the filing of the completed documentation at the registry of the competent body to rule on the application, it shall be considered denied.

Also, where the Local Corporation has competence, the application will be included in the procedure envisaged for planning permits and will be communicated to the Regional Planning Commission for it to make its report. If the Commission's report is not forthcoming within a month, it is assumed to be positive.

Lastly, for authorisations on non-developable land in coastal municipalities, Article 27 of Law 2/2004 generally provides the following time limits:

- n Three months from the filing of the complete dossier at the register of the Regional Town and Country Planning Commission when the latter is competent to issue the said authorisation.
- n Two months for the Commission to issue a binding report where the Local Corporation has the authority to grant the authorisation. This time limit is as from the entry of the complete dossier at the Commission's registry.
- n The Local Corporation has one month to give its decision for authorisation on non-developable land as

project in question.

- n One month for issuance of the **environmental verification report** as from the filing of the complete dossier at the register of the Regional Ministry of the Environment.

If no report is issued within that time limit, actions may continue their course. However, the body authorised to grant the license must take account of a report issued after the deadline date but before the municipal decision is made.

- n Thirty days for issuance of the **environmental compliance certificate** by the Directorate-General of the Environment or the Local Corporation as from the date of application.

If no decision is forthcoming by the due date, the interested party may initiate the activity after first notifying the Local Corporation of this circumstance (where the latter is responsible for the issuance of the certificate).

from the issuance of the report by the regional body, or as from the due date for the issuance of the said report.

Where works, structures, uses, plants and activities are intended for location in the easement area for protection of the public maritime-terrestrial domain, the Regional Town and Country Planning Commission has three months to make its decision as from the date of entry of the complete dossier at the registry of the competent body. If no decision is forthcoming in the given time, the application shall be considered denied.

## FEES

### INDUSTRY

Regarding industrial matters, Law 9/1992 of 18 December 1992 regulates the fees applicable to industrial, energy and mining regulatory activities and the sale of commodities.

The taxable event for this fee is the rendering of services or the performance of the following activities when they are carried out by the Regional Ministry of Industry and Technological Development not including the private sector, and it is obligatory for the administrative subjects to request or receive them.

Services include operating permits, registration and control of electricity generation, transmission, transformer and distribution plants and electricity use and granting of the status of special scheme electricity producer and registration thereof, and the authorisation of heating, cooling and hot water installations.

### TOWN PLANNING

Having regard to planning matters, according to Law 9/1992 the granting of permits on rustic land and in the easement area for protection of the public maritime-terrestrial domain is subject to a fee whose taxable event is the activity performed by the Regional Ministry of Public Works, Territorial Planning, Housing and Urban Development, regarding the granting of permits on rustic land and the issuance of the mandatory preliminary report where authority is held by the Local Corporation, all in accordance with the applicable legislation, as well as the granting of permits in the easement area for protection of the public maritime-terrestrial domain, including urban land.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

### ENVIRONMENT

Regarding environmental matters, according to Law 9/1992 of 18 December 1992, the Integrated Environmental Authorisation is subject to a Fee whose taxable event is the performance by the Administration of the Autonomous Community of Cantabria of all activities required for the taxable person to obtain the integrated environmental authorisation and of all of the activities relating to the modification of the said environmental authorisations.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.



One must therefore look to the regulations contained in the by-laws of each municipality.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

## **SPECIFIC TRAINING FOR MANAGERS**

### **INDUSTRY**

According to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

Also, according to the Order of 17 October 2003, the commissioning of low-voltage electricity plants must be done by an authorised installer.

### **TOWN PLANNING**

### **ENVIRONMENT**

# **AUTONOMOUS COMMUNITY OF CASTILE-LEON**

## CASTILE-LEON APPLICABLE RULES

INDUSTRY	TOWN PLANNING	ENVIRONMENT
<p>Besides the State regulations, which are basic, in the Autonomous Community of Castile-Leon, the following regulatory provisions are in force which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) plants using renewable energy sources.</p> <ul style="list-style-type: none"> <li>n <b>Order of 23 May 1995</b> creating the Register of Special Scheme Generation Plants.</li> <li>n <b>Decree 189/1997</b> of 26 September 1997 establishing the authorisation procedure applicable to electricity generation plants.</li> <li>n <b>Decree 107/1998</b> of 4 June 1998 regarding interim measures for the authorisation of electricity generation plants.</li> <li>n <b>Decree 50/1999</b> of 11 March 1999 amending Decree 107/1998.</li> <li>n <b>Decree 127/2003</b> of 30 October 2003 regulating administrative authorisation procedures for electricity plants in Castile-Leon.</li> <li>n <b>Decree 156/2003</b> of 26 December 2003 attributing and decentralising competences at the central administrative bodies of the Regional Ministry of Economy and Employment and at the territorial offices of the Castile-Leon Regional Government.</li> </ul>	<p>The following regulatory provisions shall be applicable within the territorial limits of Castile-Leon:</p> <ul style="list-style-type: none"> <li>n <b>Law 10/1998</b> of 5 December 1998 on Land Use Planning in Castile-Leon.</li> <li>n <b>Law 5/1999</b> of 8 July 1999 on town planning in Castile-Leon.</li> <li>n <b>Decree 22/2004</b> of 29 January 2004 establishing the Urban Planning Regulation of Castile-Leon.</li> <li>n <b>Order 1079/2006</b> of 9 June 2006 of the Regional Ministry of Public Works approving the technical planning instruction regarding general conditions for the installation and authorisation of electricity generation infrastructures powered by photovoltaic energy.</li> </ul>	<p>In addition to basic national legislation, the following regulatory provisions are applicable within the territorial limits of Castile-Leon:</p> <ul style="list-style-type: none"> <li>n <b>Law 11/2003</b> of 8 April 2003 on Environmental Prevention in Castile-Leon.</li> <li>n <b>Decree 159/1994</b> of 14 July 1994 approving the implementing regulation of Law 5/1993 regarding activities classified as being unpleasant, unhealthy, harmful or dangerous.</li> <li>n <b>Decree 209/1995</b> of 5 October 1995 approving the Environmental Impact Assessment Regulation.</li> <li>n <b>Legislative Decree 1/2000</b> of 18 May 2000 approving the Consolidated Text of the Law on Environmental Impact Assessment and Environmental Audits (the part not repealed).</li> </ul>

## REGULATORY COMPETENCES

### INDUSTRY

The Spanish State is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 70(24) of the Statute of Autonomy of Castile-Leon, approved by Organic Law 4/1983 of 25 February 1983 and amended by Organic Law 14/2007, confers exclusive powers on the Autonomous Community of Castile-Leon regarding the storage, generation distribution and transmission of all energies when confined to the territory of the Community and provided that their use does not affect another Autonomous Community.

Also, Article 71(1)(10) of the Statute of Autonomy confers competences on the Autonomous Community of Castile-Leon for legislative and material implementation in matters of mining and energy regulation.

### TOWN PLANNING

Article 70(1)(4) of the Statute of Autonomy of Castile-Leon, approved by Organic Law 4/1983 of 25 February 1983, as set out in Organic Law 14/2007, confers competences on the Autonomous Community of Castile-Leon for town and country planning and housing.

### ENVIRONMENT

The Spanish State is competent to lay down the basic rules on matters of environmental protection.

Article 71(17) of the Statute of Autonomy of Castile-Leon, approved by Organic Law 4/1983 of 25 February 1983, as set out in Organic Law 14/2007, confers competences on the Autonomous Community of Castile-Leon for legislative and material implementation in matters of environmental protection.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

## INDUSTRY

Pursuant to Decree 127/2003, the construction of electricity generation plants and their associated facilities requires the following industrial authorisations:

- n Administrative authorisation of the installation's draft project.
- n Approval of the final design.
- n Authorisation to operate

This procedure and its authorisations applies to direct lines, transmission lines and supplies carrying voltages over 1 kV where the latter are incorporated into the distribution grid, and generation or distribution plants of 1 kV or less whose owners specifically apply for public utility status.

However, these same generation or distribution plants of 1 kV or less are excluded from the procedures regulated in Decree 127/2003 where specific recognition of public utility status is not stipulated.

According to Decree 189/1997, in addition to the above-mentioned authorisations, the installation of wind plants also requires a decision regarding project selection where the latter is necessary.

In principle, the installation of all wind farms, except experimental wind plants and those used for research purposes and for self-consumption of electricity

## TOWN PLANNING

For the construction of electricity generation plants and associated infrastructures the following planning authorisations are required:

- n Works planning permit.
- n Authorisation for exceptional use where the plant is located on the following categories of land: common rustic, urban, irregular settlement, mining activities, agricultural protection, protected infrastructures, cultural protection, nature protection and special protection status.

However, the installation of energy generation infrastructures does not require authorisation for exceptional use where these are envisaged in sectoral planning or in town and country planning instruments and are located on the following categories of rustic land:

- Common rustic land.
- Rustic land in urban settings.
- Rustic land with agricultural protection.
- Rustic land with infrastructure protection.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n Authorisation for exceptional use where plants are located on rustic land.

## ENVIRONMENT

Pursuant to Law 11/2003 and by default thereof to the Pollution (Integrated Prevention and Control) Act, Law 16/2002 of 1 July 2002 on Integrated Pollution Prevention and Control, the construction of energy generation plants and their associated facilities generally requires the following environmental authorisations:

- n Environmental authorisation for the plants listed in Annex I of Law 16/2002.

For the purposes of this study we should recall that Annex I of Law 16/2002 includes the following combustion plants with thermal output greater than 50 MW:

- Ordinary or special scheme electricity generation plants that burn fossil, waste or biomass fuels.
- Co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by an undertaking, whether or not that is its principal activity.

- n Environmental permit for plants liable to cause a considerable nuisance in accordance with general and sectoral regulations, alter health conditions, harm the environment or pose a risk to people or property.

Activities requiring an Environmental Authorisation are exempt.

According to Order 1079/2006 of the Regional Ministry of Public Works, the installation of electricity generation infrastructures using photovoltaic energy requires an environmental permit.

- n Opening or commencement of activity permit. Needed for the commissioning of plants requiring an Environmental Authorisation and an Environmental

with no connection to the distribution grid, must be subject to a competitive procedure when located in a protected Natural Area, when composed of more than three wind turbines or when aggregate output exceeds 100 kW.

However, Decree 189/1997 does not apply to such experimental or self-consumption plants where the above requirements do not apply, without prejudice to the need to comply with the technical obligations laid down in applicable law.

Low-voltage electricity generation plants which do not require recognition of public utility status are regulated by Royal Decree 842/2002, whereunder an authorisation is not required for their construction, only for commissioning.

Lastly, we should note that where generation plants have special scheme status, they must obtain the following authorisations:

- n Status as a special scheme plant.
- n Filing at the Registry of Special Scheme Electricity Generation Plants.

In the case of **thermal energy generation plants** (heating and/or cooling), we should note that the rules applying to this kind of plant (when the energy produced is put to industrial use or when it is used in buildings) do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous

Permit.

- n Environmental Notice: activities listed in Annex V of Law 11/2003.

The following plants are included in Annex V:

- Electricity, gas, heating and hot water installations in buildings.
- Electricity or thermal energy generation systems using solar panels or wind devices designed for domestic use or use by groups of homeowners and public, administrative and service buildings.
- Electricity or thermal energy generation systems using micro co-generation units with a maximum output below 150 kW for domestic use or use by groups of homeowners and public, administrative and service buildings.

- n Environmental Impact Study for the activities listed in Annexes III and IV (in addition to those listed under national law).

Annex III includes thermal power plants, co-generation plants and other combustion plants whose total installed capacity is 50 thermal MW or greater.

The following plants are included in Annex IV:

- Thermal power plants, co-generation plants and other combustion plants whose total installed capacity is between 15 and 50 thermal MW.
- Electricity transmission or distribution lines of over 66 kV whose length is 15 or more kilometres.
- Solar energy generation plants with an output of 10 000 kW or more.

Community.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

In accordance with Decrees 189/1997 and 127/2003, and especially with Decree 156/2003, the following administrations are competent to grant the aforementioned authorisations:

- n The Directorate-General of Energy and Mines for granting of administrative authorisations and for approval of electricity generation plant projects whose location affects more than one province.

It is also competent to select the best wind project when these are submitted as part of a competitive process.

Also, the Directorate-General of Energy and Mines is competent to grant recognition of special scheme status for plants and to file at the Registry of Special Scheme Electricity Generation Plants.

- n The Territorial Delegations of the Castile-Leon Regional Government are competent to grant administrative authorisation for electricity generation plants which do not affect other provinces.

They are likewise competent to grant permits authorising the operation and/or commissioning of electricity plants.

### TOWN PLANNING

According to Law 5/1999 and Decree 22/2004, the authority competent to grant planning permits is the Local Corporation of the municipality where the plant is located.

According to these same regulations, the following authority is competent to grant authorisation for special uses:

- n The Local Corporation in municipalities with a population of 20 000 or more or those which have a General Town Planning Scheme adapted to the Castile-Leon Planning Act, Law 5/1999 of 8 April 1999.
- n The Territorial Planning Commission in all other cases.

### ENVIRONMENT

According to Law 11/2003 and Decree 209/1995, the following authorities are competent to grant authorisation for these plants:

- n The Regional Minister responsible for environmental matters will decide on environmental authorisation for the activities listed in section A and B(1) of Annex I (including the combustion plants listed).

The same Minister will likewise be competent to grant authorisation to commence those activities subject to the environmental authorisation.

- n The Mayor is competent to grant the environmental permit and also to grant authorisation to commence activities subject to a municipal permit.
- n The Local Corporation in question is competent to rule on the Environmental Notification.
- n The following bodies are competent to grant the Environmental Impact Assessment:

- The Regional Ministry responsible for environmental matters having in the case of projects that have to be authorised or approved by the Administration of the Community of Castile-Leon.

This same body is competent to issue the environmental impact statement where the latter is related to the activities listed in Annex III of Law 11/2003.

- The Territorial Delegation of the Castile-Leon Regional Government is competent to issue the environmental impact statement where this

concerns activities listed in Annex IV of Law 11/2003 which are carried on in the province in question.

However, where the activity affects more than one province, competence lies with the Regional Ministry responsible for environmental matters.

## INFORMATION MEASURES

### INDUSTRY

The following information measures are laid down in the procedure provided in Decree 127/2003 for processing of authorisations for the building of energy generation plants and their associated facilities regulated in the said Decree:

- n The application for administrative authorisation is publicised for a period of 20 days unless a longer period is envisaged under environmental law. To that end, an extract of the application is placed in the Official Gazette of the province in question.

Where the plant affects more than one province, the announcement is published in the Official Gazette of each one and also in the Official Gazette of Castile-Leon.

Where the plant is subject to an environmental impact assessment in accordance with applicable law, the two must be publicised jointly but in accordance with the procedure laid down for the latter.

- n The decision issued with regard to authorisation must also be published in the Official Gazettes subject to the same public information criteria.

### TOWN PLANNING

According to Law 22/2004, where a plant requires Special Use Authorisation, the application must be publicised for a period of 20 days through the publication of an announcement in the Official Gazette of Castile-Leon and in one of the largest-circulation newspapers in the with province.

### ENVIRONMENT

According to Law 11/1993, the following information measures apply to the processing of the environmental authorisations envisaged therein:

- n For granting of the Environmental Authorisation, once the application documentation is complete the application must be publicised for 30 days through an announcement in the Official Gazette of Castile-Leon. It will have a duration of 30 days and will produce the effects envisaged in the basic national law, and the exemptions laid down therein will likewise apply.

The law also provides that the competent body must serve notice of the decision to the stakeholders, to the Local Corporation where the plant is to be located, to the different bodies that issued binding reports, and where applicable to the bodies authorised to grant mandatory authorisations. The decision must also be published in the Official Gazette of Castile-Leon.

- n Having regard to the granting of the Environmental Permit, the Local Corporation must publicise the file for 20 days by placing an announcement in the Official Gazette of the Province and on the edict board of the Local Corporation.



- n This decision, as well as the decision approving the Project, must be communicated to the applicant and to all the affected administrations, public bodies and public or general interest service undertakings affected by the file.

The following information measures apply to the authorisation proceeding of wind energy plants regulated under Decree 189/1997:

- n First of all, the submission of an administrative authorisation application for a wind farm or wind turbine for projects requiring a competitive process, must be announced in the Official Gazette of Castile-Leon and in the Official Gazette of the Province. The time limit for the submission of competing projects is one month as from the publication in the latter of the two official gazettes mentioned above.

- n Selection of the project must also be publicised for 30 working days through publication in the Official Gazette of Castile-Leon, in the Official Gazette of the Province and on the bulletin board of the Local Corporation(s) affected by the installation.

If application is filed for public utility status of the plant and for the power lines connecting it to the electricity distribution grid, individual notice must also be served to those persons affected with whom an agreement has not been reached.

- n Also, the authorisation decision for in a competitive procedure must be published in full in the Official Gazette of Castile-Leon and in the Official Gazette of the Province where the public information formality was originally announced.
- n Applications for the authorisation of wind farms or wind turbines which do not form part of competitive projects must likewise be publicised.

Personal notice must also be served to the neighbours adjacent to the proposed site and to those who could be affected owing to their proximity .

Also, the decision granting or denying the environmental permit must be communicated to the stakeholders and also forwarded to the Environmental Prevention Commission in question.

- n Having regard to the Environmental Impact Assessment procedure, we should note that according to Law 11/2003 and Decree 209/1995, the project must be publicised together with the substantive project.

Where publicity of the substantive project is not envisaged in the applicable sectoral regulations, the environmental body must publicise the study for 30 or 20 days (depending on whether the ordinary or abbreviated procedure is used) through publication of an announcement at the Environmental Territorial Services Offices, in the Official Gazette of Castile-Leon and on the bulletin boards of the Local Corporations involved.

Provision is also made for publication of the Environmental Impact Statement in the Official Gazette of Castile-Leon and for notification to be served to the stakeholders.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

The following coordination mechanisms are laid down in the procedure provided in Decree 123/2003 for the processing of authorisations regulated therein for electricity generation plants and their associated facilities:

- n First of all, projects for electricity generation, transmission and distribution plants must undergo an Environmental Impact Assessment when required by applicable law.
- n Projects for electricity generation, transmission and distribution plants which are not required to undergo an Environmental Impact Assessment but affect areas included in the Natura 2000 Network are subject to the mandatory and binding report issued by the Regional Ministry competent in environmental matters and are exempt from the provisions of Article 14 of this Decree.
- n The body responsible for processing the authorisation application must notify the different public administrations, bodies and, as the case may be, public or general interest service undertakings, of any aspect of the plant that could affect the property and rights for which they are responsible.
- n Should the plant affect several provinces, the full dossier, together with the report from the competent body, must be forwarded to the Directorate-General of Energy and Mines for its decision.
- n Having regard to the processing of the construction project, the Decree provides that the competent body forward the project offprints to the different public administrations, bodies or public or general interest service undertakings affected which are responsible

### TOWN PLANNING

According to Law 5/1999 and Decree 24/2004, the general procedure for the processing of building permits provides for the following coordination measures:

- n First of all, planning permits may not be granted for the use of land until other prior administrative authorisations required under the sectoral legislation are granted.
- n It further provides that where reports or authorisations from other public administrations are mandatory and these are not appended to the permit application, the Local Corporation must forward a copy of the file to the said administrations so that they can issue a decision within a maximum limit of two months. If no decision is forthcoming within that limit, a favourable decision is assumed and the authorisations are granted except where applicable law stipulates different procedures or effects.
- n It also provides that before a decision is taken, municipal technical and legal services, or failing these the provincial government services, must issue a report on compliance of the application with planning laws and any other applicable rules.
- n It also provides that the works and environmental permits be processed jointly, and that the decision regarding the latter must be issued first.

These same regulatory provisions, where they regulate the procedure for granting of authorisation for the exceptional use of rustic land, envisage the following coordination mechanisms:

- n First of all, the awarding of this authorisation must

### ENVIRONMENT

According to Law 11/2003, the following coordination mechanisms apply to the processing of the environmental authorisations envisaged therein:

- n First of all, the following mechanisms are provided in connection with the processing of the Environmental Authorisation:
  - Once the publicity period has concluded, information is requested from the bodies which must issue an opinion on matters within its purview and from those others deemed necessary to decide on the application.
  - Of these, it is expressly provided that reports are to be requested from the Local Corporations involved and from the Water Authorities.
  - Also, the proposed decision is to be notified to the administrations which have informed the application for comment.
  - Lastly, this Law provides that the Environmental Authorisation must precede the substantive industrial authorisations, if these are required, and the planning permit.
- n The following mechanisms are envisaged in connection with the processing of the environmental permit:
  - Where necessary, reports are to be requested from the administrative bodies of the Community of Castile-Leon competent by reason of the subject matter.
  - Furthermore, in procedures where an environmental impact assessment is required, the procedure for obtaining such an assessment must be followed

- for property and rights so that they can establish appropriate technical specifications.
- n As in the previous instance of the application for authorisation for the construction project, should the plant affect several provinces, the full dossier, together with the report from the competent body, must be forwarded to the Directorate-General of Energy and Mines for its decision.
- Decree 189/1997 regulating the processing of wind energy generation plants, specifically provides for the following coordination measures:
- n First of all, the Decree provides that a municipal activity and opening permit must be obtained, in accordance with the applicable sectoral legislation, for the installation and operation of these plants.
  - n It also requires that authorisation procedures for these plants be subject to the environmental impact assessment when so required by applicable law, and to the authorisations and reports needed according to the sectoral regulations.
  - n Having regard to the selection of projects in a competitive procedure, reports must be requested from, inter alia, the Castile-Leon Regional Energy Body and the Local Corporations affected.
  - n Where projects have an installed capacity over 25 MVA, a favourable report is required from the Directorate-General of Energy of the Ministry of Industry and Energy.
  - n Also, the Ministry of Industry and Energy must be informed of applications where installed capacity is between 15 MVA and 25 MVA.
  - n Lastly, the Decree prohibits the granting of administrative authorisation where the Environmental Impact Statement has not been issued where one is

precede the awarding of the building permit.

- n This authorisation is processed and resolved as part of the procedure for granting of the building permit.
- n Should the decision lie with the Town and Country Planning Commission, the Local Corporation must forward the file to that Administration before making a decision on the building permit.

before the environmental permit can be granted.

- Also, the Environmental Prevention Commission is required to issue a report, except for the activities listed in Annex II of the Law.
  - The environmental permit application and planning permit must be processed jointly when the latter is a requirement for the implementation of the activity.
- n Lastly, we should note that the environmental impact assessment procedure provides that the procedure is to be initiated at the decision-making body responsible for approving the substantive project, which in turn must publicise the Environmental Impact Study when so required by applicable the sectoral legislation.

required.

## PARTICULAR CASES IN PROCESSING

INDUSTRY	TOWN PLANNING	ENVIRONMENT
<p>According to Decree 127/2003, the procedure for the granting of the authorisations regulated therein consists of the following steps:</p> <p>n Step I (Administrative Authorisation). The process begins when the interested party files an application which is publicised once the documentation submitted has been verified.</p> <p>Any submissions made are forwarded to the developer, who has 15 days to answer these with submissions of his own.</p> <p>The competent body will request submissions from the different public administrations, bodies or, as the case may be, from public service undertakings affected which must be returned within 20 days.</p> <p>If no submissions are made within that time limit, a second request must be made with a time limit of 10 days.</p> <p>If no response is received from the second request, it can be assumed that these bodies assent to the plant.</p> <p>However, if submissions are received, these are forwarded to the developer so that he can express his acceptance or disagreement. If he disagrees, the submissions are sent back to the Administrations or bodies who made them in the first place who are given 15 days to give their assent or state their objections. If no response is forthcoming within that time, it is assumed that the submissions are</p>	<p>According to Law 5/999 and Decree 22/2004, the following general procedure is followed to obtain a planning permit:</p> <p>n The process begins when the interested party files an application at the Local Corporation.</p> <p>n The Local Corporation examines the documentation submitted. If it is found to be incomplete, the interested party is instructed to complete it within 10 days.</p> <p>n When the application is complete, reports or authorisations are requested from other public administrations, which have two months to issue them. If no response is forthcoming within this limit, reports are assumed to be favourable and authorisation granted unless the sectoral legislation rules otherwise.</p> <p>n The municipal technical and legal services, or failing those the provincial government services, then issue a report on compliance of the application with planning laws and any other applicable rules.</p> <p>n It shall then decide on the application in the light of these reports.</p> <p>The procedure for granting of the Authorisation for exceptional use of rustic land is regulated by Decree 22/2004, and consists of the following steps:</p> <p>n It begins with an application for a building permit,</p>	<p>According to Law 11/2003, the procedure for the granting of the Environmental Authorisation follows these steps:</p> <p>n The interested party initiates the process by submitting an application to the Regional Ministry responsible for environmental matters (where it is competent to issue the authorisation).</p> <p>n After submission, the application is publicised for 30 days.</p> <p>n The environmental body then requests reports from the bodies legally required to issue reports on matters within their purview and from any others that it deems necessary, including the Local Corporation and the Water Authority.</p> <p>n A hearing is arranged for stakeholders to make submissions.</p> <p>n Once the foregoing formalities are concluded, these submissions are forwarded to the administrations which issued the binding reports for comment.</p> <p>n The Regional Environmental Prevention Commission draws up a preliminary decision and the competent body then decides on the Environmental Authorisation.</p> <p>The procedure for the granting of the Environmental Permit, also provided in Law 11/2003, consists of the following steps:</p> <p>n The developer submits an application to the Local Corporation.</p>

<p>accepted.</p> <p>A decision is made upon conclusion of these formalities.</p> <p>n Step II (Project approval). If not processed together with the administrative authorisation, once the latter is granted the developer applies for approval of the project.</p> <p>The competent body petitions the public administrations and bodies affected to draw up technical specifications, for which they have 20 days.</p> <p>If no response is forthcoming within that time limit, a second request is made with a 10-day limit. If no response is received within the new time limit, the proposed specifications will be deemed to be accepted.</p> <p>However, where specifications are drawn up, these are forwarded to the developer who must accept or oppose them.</p> <p>This response is sent back to the administrations or bodies in question who then have 10 days to either express their consent or make changes. If no response is forthcoming within that time limit, changes will be deemed accepted.</p> <p>Upon conclusion of the foregoing procedures, the competent body may conduct a field inspection and issue its decision on the application.</p>	<p>which must be accompanied by the documentation required in accordance with Article 307 of the Decree.</p> <p>The documentation is examined and, if incomplete, must be remedied.</p> <p>n Once all the documentation is submitted, it is publicised..</p> <p>If after one month from the date of submission the application has not been publicised, the interested party may undertake public information as a private initiative.</p> <p>n Where the Local Corporation is competent to make the decision, once the publicity formality has concluded it must decide on the authorisation and may issue the planning permit at the same time.</p> <p>n Where the Territorial Commission is competent to make the decision, once the publicity period has concluded the Local Corporation forwards the file to the Commission, together with the report on the submissions received and the application itself and proposes plain authorisation, conditional authorisation or refusal.</p> <p>If the file is not forwarded within one month, the interested party may approach the Commission to call for the continuation of the procedure.</p> <p>The Commission decides on the authorisation application in the light of the file and then forwards that decision to the Local Corporation.</p>	<p>n The latter examines the documentation and if it does not comply with the planning, it is denied outright.</p> <p>n If it does comply, the application is publicised and notification is sent to the neighbours adjacent to the site.</p> <p>n In the light of any submissions, the Local Corporation issues a report on the activity and the submissions received and forwards it, together with the file, to the competent Environmental Prevention Commission.</p> <p>n The latter then issues a report on the file, which is binding for the Local Corporation if it entails the denial of the application or imposes corrective measures.</p> <p>This Commission may request new reports from other bodies of the Castile-Leon Regional Government.</p> <p>n The Commission then sends the report to the Local Corporation, which will decide on the environmental permit application.</p>
<p>n Step III (Authorisation to operate): Once the plant has been built, the developer applies for commissioning (which may be provisional or permanent). The commissioning certificate is issued within one month after the requisite checks have been conducted.</p> <p>The procedure for granting the necessary industrial authorisations for the construction of wind energy</p>		<p>To obtain authorisation for the commencement of activities requiring an environmental permit, the owner simply has to notify the competent public administration of their commissioning.</p> <p>However, activities subject to Environmental Authorisation may not commence production until the competent public administration, once it has received notification of commissioning, verifies that the plant complies with the approved project and the corrective measures imposed, all within one month of such notice.</p> <p>However, if no express notification is received within that time limit, the owner may commence activity, although the public administration may conduct such</p>

generation plants is regulated in Decree 189/1997 and has two parts:

n The authorisation procedure for wind plants presented in the form of competitive projects consists of the following steps:

- Preliminary project selection: This procedure consists of an initial project selection step which begins with the submission of the administrative authorisation application for a plant where a competitive process is required.

The application is publicised so that competing applications may be submitted.

Once this deadline has passed and the requisite reports are obtained (at least from the Castile-Leon Regional Public Energy Body and the Local Corporations) the best project is selected.

- Step I (Administrative Authorisation): Once the project is selected, the documentation required in Article 8 of the decree must be submitted within one month and the application then publicised together with the Environmental Impact Study and the Public Utility Declaration where necessary.

Upon conclusion of these formalities and having requested the requisite reports, the administrative authorisation is issued.

- Step II (Project approval): If not already approved together with the administrative authorisation, the developer must request approval of the project.
- Step III (Commissioning): Once construction has concluded, the provisional commissioning certificate is issued. Then, after the plant has passed a series of tests and the opening permit is obtained, the plant is inspected and the requisite permanent commissioning authorisation is

verification at a later date to check compliance with each and every one of the requirements.

The procedure to obtain the Environmental Notification simply consists of filing an application at the Local Corporation.

Lastly, regarding the processing of the Environmental Impact Assessment, Decree 209/1995, in force pending regulation to implement Law 11/2003, regulates two environmental impact assessment procedures.

The ordinary procedure (where the Regional Ministry responsible for environmental matters is competent) follows these steps:

- n The Environmental Impact Study is submitted to the decision-making body, which then publicises it together with the project.
- n Once these actions have concluded, the complete dossier is sent, together with submissions, to the environmental body.
- n If there has been no public information procedure because the substantive rules do not require it, the environmental body examines the documentation and, if complete, publicises it for 30 days. If it is not complete, it requests any missing documentation before publicising it.
- n Once the public information period has concluded, the Territorial Delegation forwards the dossier to the Provincial Technical Working Party for study and formulation of a draft Environmental Impact Statement which is then sent to the Regional Ministry for approval.

The simplified procedure follows the same course except that the public information

issued.

- n The procedure for authorisation of wind plants for which competitive projects are not required is the same as described in the preceding paragraph except for the need to call for competing projects and the time limits for deciding on these applications.

As regards entry in the Registry of Special Scheme Electricity Generation Plants, according to the Order of 23 May 1995, registration will be at the request of the interested party and can be done together with the application for recognition of special scheme plant status.

After receiving the application, the Directorate-General of Industry, Energy and Mines has one month to issue its decision. If no decision is forthcoming within that time limit, the plant shall be assumed to be registered.

And lastly, we should note that the Autonomous Community has not regulated the commissioning of low-voltage electrical installations or thermal installations, and therefore the national regulations apply as explained earlier.

period, if not concurrent with the substantive project, lasts for two months and the Territorial Delegation issues the Environmental Impact Statement.

## TIME LIMIT FOR GRANTING

### INDUSTRY

As a general rule, Decree 127/2003 provides the following time limits for granting the different authorisations needed for electricity plants regulated therein:

- n Six months as from the submission of the application

### TOWN PLANNING

According to Decree 22/2004, planning permit applications must be answered and interested parties notified within the following time limits:

- n Where an environmental permit is also required: within the time limit for decision and notification

### ENVIRONMENT

According to Law 11/2003, the environmental authorisations regulated therein must be granted within the following time limits:

- n Ten months for granting of the Environmental Authorisation. If no decision is issued in the given time,

for the granting of administrative authorisation.

Applications for authorisation shall be considered denied if no express decision is forthcoming.

- n Three months for Project approval as from the submission of the application or from the date of issue of the administrative authorisation when applied for jointly.

Applications shall be considered denied if no express decision is forthcoming.

- n The competent body will issue the commissioning certificate within one month.

Exceptionally, the time limit for issuance of the authorisations and permits required for installation of wind plants regulated in Decree 189/1997 is as follows:

- n Three months for selection of the best project as from the date the documentation was received.
- n Three months for the decision regarding the administrative authorisation as from the day the environmental impact statement is received at the Registry of the Territorial Industry, Trade and Tourism Service.

Applications not expressly answered within one year of the day the first application was submitted are considered denied.

- n One month for a decision regarding administrative authorisations not entailing a competitive process as from the day the Environmental Impact Statement is received at the Registry of the Territorial Industry, Trade and Tourism Service.

In any case, applications not expressly answered within nine months of the day the file was initiated are

where this is longer than in the following paragraphs. In other words, within four months.

- n Where an environmental permit is not required, the time limit is three months for new construction, including antennae and other communications equipment and energy distribution ducting and cabling and for first occupation or use of structures and facilities.

The maximum time limit for notification of the decision runs from the date the application is officially received at the municipal register.

If no decision is forthcoming within the aforementioned time limits, the license may be deemed granted in accordance with the law of administrative procedure except where the application affects catalogued or protected elements or public domain.

The following time limit applies to authorisation for exceptional use of rustic land:

- n Three months as from submission of the application when the Local Corporation makes the decision.
- n Two months as from the date of reception of the complete dossier where the Territorial Commission makes the decision.

If no response is forthcoming within these time limits, authorisation for exceptional use is considered granted by virtue of administrative silence.

the application shall be considered denied.

- n Four months for granting of the Environmental Permit. If no decision is forthcoming by the time limit, the application is considered approved.
- n One month for authorisation to commence activities subject to environmental authorisation. If no decision is forthcoming by the time limit, the owner may commence activity.



considered denied.

- n Where a final technical design is submitted, authorisation of the works is issued in the same decision and authorisation is contingent upon approval of the activity permit. If no decision is forthcoming within the time limit, the application is considered denied.

According to the Order of 23 May 1995, the time limit for filing at the Registry of Special Scheme Electricity Generation Plants is one month. Once this limit has elapsed, the application can be considered automatically registered.

## FEES

### INDUSTRY

Law 12/2001 of 20 December 2001 approving the rules regulating public fees and prices in the Community of Castile-Leon provides for a Fee for Industry and Energy Matters whose taxable event is the rendering of administrative services relating to planning, mandatory authorisations and inspection, verification and supervision of industrial and energy activity.

The processing of administrative authorisations for energy-related matters, including filing at the Registry, is specifically included in the taxable event. In these cases, the fee is based on the cost of the project.

Filing and checks of electrical and thermal installations in buildings and pressurised facilities are also included in

### TOWN PLANNING

We should note that for planning purposes there is no regional regulation for the charging of any fee for processing authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the establishment of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

One must therefore look to the regulations contained in the by-laws of

### ENVIRONMENT

Law 12/2001 of 20 December 2001 approving the rules regulating public fees and prices in the Community of Castile-Leon provides for a Fee for Environmental Matters whose taxable event is the rendering of administrative services relating to the supply of environmental information, environmental impact assessment and environmental audits.

It also regulates a fee for protection whose taxable event is the rendering of administrative services relating to the processing of authorisations, filing of data in environmental protection registries and certification of the latter.

The processing of applications for the integrated environmental authorisation is specifically included in the taxable event and a fee is set for that service.

the taxable event.

each municipality.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

According to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, the documentation necessary for commissioning of the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation for pressurised equipment and supplementary thermal instructions and RD 842/2002 approving the Regulation of Low-Voltage Electrical Installations both require that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is required from the Administration.

### TOWN PLANNING

### ENVIRONMENT

# **AUTONOMOUS COMMUNITY OF CASTILE-LA MANCHA**

## AUTONOMOUS COMMUNITY OF CASTILE-LA MANCHA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of Castile-La Mancha the following regulatory provisions are in force, which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources.

- n **Law 1/2007** of 15 February 2007 on Promotion of renewable energies and provision of incentives for energy saving and efficiency in Castile-La Mancha.
- n **Decree 139/2009** of 15 September 2009 adopting the Strategic Framework for Energy Development in Castile-La Mancha.
- n **Decree 299/2003** of 4 November 2003 regulating the procedure whereby plants may obtain special scheme electricity generation status and the creation of a Regional Registry for such plants.
- n **Decree 80/2007** of 19 June 2007 regulating authorisation procedures for electricity generation plants processed by the Castile-La Mancha Regional Government and their review and inspection procedure.
- n **Decree 58/1999** of 18 May 1999 regulating the harnessing of wind energy produced by wind farms.
- n **Law 7/2008** regulating fees in the area of Industry, Energy and Mines in Castile-La Mancha.

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of Castile-La Mancha:

- n **Legislative Decree 1/2004** of 28 December 2004 approving the Consolidated Text of the Town and Country Planning Act..
- n **Decree 242/2004** of 27 July 2004 adopting the Rustic Land Regulation laid down in the Town and Country Planning Act, Law 2/1998.
- n Municipal by-laws which may have been enacted by Local Governments.

#### ENVIRONMENT

Besides the national regulations, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of Castile-La Mancha:

- n **Law 4/2007** of 8 March 2007 regulating environmental assessment in Castile-La Mancha.
- n **Decree 178/2002** of 17 December 2002 adopting the General Implementing Regulation of the Environmental Impact Assessment Act of Castile-La Mancha, Law 5/1999.
- n **Law 27/2006** of 18 July 2006, regulating the right to access information, public participation and access to justice in the area of the environment.

- n Instruction of the Directorate-General of Industry and Energy regarding application criteria in the case of Solar Farms.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures.

Article 31(1)(27) of the Statute of Autonomy of **Castile-La Mancha**, approved by Organic Law 9/1982 of 10 August 1982, confers exclusive competence on the Castile-La Mancha Regional Government in respect of energy production, distribution and transmission plants where the transmission remains within the Community and its use does not affect another Autonomous Community. Article 32(8) confers competences for legislative and material implementation in matters of mining and energy regulation.

### TOWN PLANNING

Article 31(1)(2) of the Statute of Autonomy of **Castile-La Mancha**, approved by Organic Law 9/1982 of 10 August 1982 confers exclusive competences on the Castile-La Mancha Regional Government in respect of land use planning, town planning and housing.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 32(7) of the Statute of Autonomy of **Castile-La Mancha**, approved by Organic Law 9/1982 of 10 August 1982 confers exclusive competences for legislative and material implementation in matters of the environment and ecosystems.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

Article 27 of Law 1/2007 of 15 February 2007, on Promotion of renewable energies and provision of incentives for energy saving and efficiency in Castile-La Mancha, provides for the rationalisation of administrative authorisation procedures in order to achieve the objectives laid down therein.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

### TOWN PLANNING

### ENVIRONMENT

According to Decree 80/2007, authorisation of **electricity generation plants and their connection facilities** located within the territorial limits of the Autonomous Community of Castile-La Mancha whose operation does not affect any other Autonomous Community (according to Article 111 of RD 1955/2000, a plant is deemed not to affect another Autonomous Community if there is no obligation to make an economic offer to the market operator) shall require the following authorisations:

- n **Administrative Authorisation** regarding the basic project for the plant.
- n **Approval of the final design**, referring to the specific project allowing the owner to build the plant.
- n **Commissioning certificate** permitting the operation of the plants and their commercial exploitation once the project is executed.
- n However, plants with a rated voltage of 1 kV or less do not require administrative authorisation for construction but the administration does need to be notified of installation.

For the construction of electricity generation plants powered by wind energy, Decree 58/1999 requires the following authorisations:

- n Approval of a **Strategic Wind Plan** where a developer seeks authorisation for the construction of more than one wind farm or, where a wind farm has already been authorised under the said Decree, the developer applies for the construction of a new wind farm.
- n **Administrative Authorisation.**
- n **Approval of the final design.**

For the construction of **plants for generation of electricity using renewable energy sources and associated facilities** the following planning authorisations are required:

- n Building permit.
- n Planning Classification if located on Rustic Land.
- n Use and Activities Permit.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n Planning Classification where the proposed plant is located on non-developable land and requires the said classification.
- n Use and Activity Permit when required for the proposed plant.

For the construction of **plants for generation of electricity using renewable energy sources and associated facilities** the following environmental authorisations will be required:

- n **Environmental Impact Statement** in the cases listed in Annex I of Law 4/2007.

This authorisation is likewise required in the cases listed in Annex II when so required by the environmental body.

This statement is also required for the construction of any other project not envisaged in Annex I that could directly or indirectly affect areas belonging to the Natura 2000 European Ecological Network when the environmental body so requires.

The following types of plants are included in Annex I:

- Thermal power stations with a heat output of over 50 MW.
- Plants for the production of electricity, steam and hot water with an output exceeding 50 MW.
- Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km or with any voltage and a length greater than 3 km where areas protected under Law 9/2009 are affected.
- Wind farms with 25 or more wind turbines or which are located less than 2 kilometres from another wind farm.
- Wind farms with more than 10 wind turbines or which are located in areas protected under Law 9/2009.
- Plants for hydroelectric energy production.

The following types of plants are included in Annex II:

- Overhead power lines (not included in Annex I) longer than 3 kilometres.

n **Commissioning Certificate.**

Decree 299/2003 requires that generation plants whose output does not exceed 50 MW (self-generation plants which use co-generation or other forms of electricity generation associated with non-electrical activities, and also where primary energy is obtained from some renewable source, biomass or any type of biofuel, provided that the permit holder does not engage in generation activities under the ordinary scheme or where non-renewable waste is used as the primary energy source) must obtain the following authorisations:

- n Recognition of the plant's status as a special scheme plant.
- n Filing at the Registry of Special Scheme Generation Plants.

We should note that the rules applying to **thermal energy generation plants** (heating and/or cooling), where the energy produced is put to industrial use or where it is used in buildings, do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

- Power lines of any length when they affect areas under environmental protection.
- Hydroelectric power plants (when, according to Annex I, these are not required for any of the works entailed in plant construction).
- Industrial combustion plants for generating electricity, steam or hot water (not included in Annex I) with a thermal output of more than 5 MW or when located in protected areas.
- Solar energy plants located on rustic land with a thermal output of 1 MW or more or which occupy a surface area greater than 5 hectares.

- Wind plants or wind turbines not included in the Annex.

- n **Integrated Environmental Authorisation** where required according to the Pollution (Integrated Prevention and Control) Act, National Law 16/2002.

- n Activity permit.

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Decree 80/2007 the following authorities are competent to grant the industrial authorisations required for the construction of electricity generation plants using

### TOWN PLANNING

The authority competent to grant building permits and use and activity permits is the **Local Corporation** of the municipality where the plant is to be located, in the case of both electricity generation plants and thermal energy

### ENVIRONMENT

The authority competent to grant the Environmental Impact Statement and the Integrated Environmental Authorisation is the relevant environmental body of the Autonomous

renewable energy sources and their connection facilities.

- n The Directorate-General of the Castile-La Mancha Regional Government responsible for energy matters is competent to award administrative authorisation and approve final technical designs of electricity generation plants and transmission and distribution grids of 132 kV or more, or smaller grids which run through more than one province of the Autonomous Community.
- n The Provincial Delegations of the Regional Ministry responsible for energy matters are competent to grant administrative authorisations and approving final technical designs in all other cases and to grant commissioning certificates.

According to Decree 58/1999, the following administrations are competent to grant the authorisations required for electricity generation plants using wind energy:

- n The Regional Minister of Industry and Labour of the Castile-La Mancha Regional Government to approve the Strategic Wind Plan.
- n The Directorate-General for Industrial Development of the Regional Ministry of Industry and Labour to grant the administrative authorisation and to approve the final technical design and also to grant the commissioning certificate for inter-provincial wind farms.
- n The relevant Provincial Delegation of Industry and Labour to award the commissioning certificate for wind farms located in one single province of the Autonomous Community of Castile-La Mancha.

Having regard to the authorisations required under Decree 299/2003, we should note that the Directorate-General of Industry and Energy is the body competent to grant recognition of special scheme status for plants and their filing it at the Registry of Special Scheme Electricity

generation plants and associated facilities.

The Administration competent to award the Planning Classification is:

- n The Regional Ministry responsible for town and country planning matters where the plant is built on specially protected, non-developable rustic land, except for the cases described in Article 54(1)(2)(a) of Legislative Decree 1/2004 (segregation and division of lots).
- n This same Regional Ministry is also competent to grant authorisation in the cases listed in Article 54(1)(3) (industrial activities) of the aforementioned Legislative Decree where the plant is located on reserved rustic land in municipalities with a population of fewer than 10 000 registered inhabitants.
- n The municipality in question in all other cases.

However, in these cases, where the plant is located in two municipalities, the Regional Ministry is competent to grant the Planning Classification.

Community of the Castile-La Mancha Regional Government.

Granting of the activity permit is the responsibility of the Local Corporations.



Generation Plants.

## INFORMATION MEASURES

### INDUSTRY

We should note that the procedure laid down in Decree 80/2007 for the granting of the authorisations necessary for the construction and commissioning of electricity generation plants using renewable energy and their connection facilities requires that applications for Administrative Authorisation of projects be published in the Official Gazette of Castile-La Mancha for 20 days (Article 9) to allow interested parties to make any submissions that they deem appropriate and seek information about the plant it is proposed to construct.

This Decree also provides that the awarding of the administrative authorisation be published in the Official Gazette of Castile-La Mancha (Article 10).

Where plants do not require an Environmental Impact Assessment or public utility declaration, both the administrative authorisation and project approval must be publicised since they are processed jointly. Therefore, both the Administrative Authorisation and Project Approval are announced in the Official Gazette of Castile-La Mancha (Articles 13 and 14).

Decree 58/1999 regulating the authorisations needed for the construction of wind farms, provides for publication of the formalities for the Strategic Wind Plan, the Administrative Authorisation and the Final Design in the Official Gazette of Castile-La Mancha for 20 days.

### TOWN PLANNING

According to Decree 242/2004, application for planning classification must be publicised for a period of 20 days through an announcement published in the Official Gazette of Castile-La Mancha and in one of the largest circulation newspapers of the Community.

The building permit is publicised in this same announcement.

The Local Corporation affected must also be notified of the decision taken.

### ENVIRONMENT

According to Article 10 of Decree 4/2007, the Environmental Impact Study must be publicised for not less than 30 days.

In addition, the issuance of the Environmental Impact Statement is to be expressly publicised (Article 16).

Also, according to Article 16 of Law 16/2002, the Integrated Environmental Authorisation is to be publicised for thirty days. In addition, once a decision is made, it is to be notified to the authorities that reported on the application and to the interested parties.

According to Decree 2414/1961, the activity permit must be publicised for 10 days where the activity is considered unpleasant, unhealthy, harmful or dangerous.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

**Decree 80/2007** provides for joint processing of the project's Administrative Authorisation and the Integrated

### TOWN PLANNING

According to Decree 242/2004, processing of the Planning Classification requires notification of the application for this

### ENVIRONMENT

Law 4/2007 provides that during the processing of the Environmental Impact Study and the publicity procedure, it

Environmental Assessment to ensure that the authorised plant is environmentally friendly (Article 9).

Moreover, this Decree requires the authority competent to process industrial authorisations to forward information to all other affected administrations giving them 20 days to express their assent or objection to the authorisation requested (Articles 9 and 14).

**Decree 58/1999** regulating the establishment of **Wind Farms**, requires the administration in charge of processing the Strategic Wind Plans to notify the Local Corporations affected and to the relevant Directorates-General of the Regional Ministries of Agriculture and the Environment, Education and Culture and Public Works, as well as any other body affected by the processing of these Plans, of this procedure, giving them one month to make whatever submissions they deem appropriate (Article 8).

These Administrations are likewise to be notified of the procedures for administrative authorisation and project approval (Articles 18 and 22).

Article 22 of the aforementioned Decree requires that the Integrated Environmental Assessment be processed together with the Project.

authorisation to all other public administrations affected (Article 43).

Furthermore, if the plant in question requires an Environmental Impact Statement or an Integrated Environmental Authorisation, actions must be forwarded to the relevant regional environmental body so that the latter may process any authorisations that are required (Article 43).

Processing of this authorisation is included in the procedure for granting of the building permit (Article 43) and is applied for together with the building permit.

Legislative Decree 1/2004 requires the Local Corporation in question to notify other affected administrations of the application for a building permit giving them one month to issue reports on aspects within their purview (Article 166).

Also, the building permit may only be processed if all other authorisations required by applicable law in each case are appended; for our purposes, the industrial authorisations indicated (Article 161).

Where an environmental impact study is required, Article 163 provides that the procedure must be suspended until an Environmental Impact Statement is forthcoming.

Lastly, Legislative Decree 1/2004 provides that all other municipal permits such as the activity permit must be granted before the building permit may be issued, and that latter is to be processed as part of the granting procedure for these permits (Article 163).

be circulated among other administrations linked to environmental protection to determine whether the action should be subjected to an environmental impact study.

Furthermore, the request for an Environmental Impact Study is submitted to the decision-making body competent to approve or authorise the project concerned, which then forwards the request to the environmental body. The latter body is likewise informed of the issuance of the Environmental Impact Statement.

It is further provided that the authorities affected by the action are to be informed of the authorisation during the public information phase.

Law 16/2002 provides that an Integrated Environmental Authorisation shall not be granted without a prior Environmental Impact Statement. The procedure for granting of this Integrated Environmental Authorisation takes the place of the procedure for granting a permit for a classified activity except for the decision by the Local Corporation.

Lastly, according to Legislative Decree 1/2004, the activity permit must be processed jointly with the building permit and may not be granted without first having obtained all other environmental and planning authorisations (planning classification) that may be required.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

According to the applicable regulations, we should note that four different procedures are envisaged for authorisation of electricity generation plants from

### TOWN PLANNING

The applicable legislation makes no provision for a specific procedure to suit the nature of the plant it is proposed to build, the technology used or its capacity; the procedure

### ENVIRONMENT

The applicable legislation provides no specific procedure, technology or capacity depending on the nature of the plant to be built, and so the general procedure laid down in that

renewable sources and of connecting installations:

- n For **electricity generation plants from renewable sources requiring an Environmental Impact Statement or Public utility declaration (Group I)**, the processing procedure laid down in Decree 80/2007 begins when the developer files an application for administrative authorisation (Step I). During this step, the application is subject to publication, the environmental impact assessment is processed and the rest of the public administrations affected are informed.

Once the Administrative Authorisation is obtained, the developer must apply for approval of the Final Design (Stage II).

Once the plant has been built, the developer applies for the Commissioning Certificate (Step III).

- n For **electricity generation plants from renewable sources which do not require an Environmental Impact Statement or Public Utility Declaration (Group II)**, the procedure is regulated in Decree 80/2007.

This procedure requires joint processing of the Administrative Authorisation and Project Approval, while in the case of Group I plants this is an option at the discretion of the applicant.

- n Decree 58/1999 regulates the procedure for **electricity generation plants using wind energy**.

The procedure begins with the processing of the Strategic Wind Plan where required (Step I). Processing of the SWP is initiated at the request of the interested party and is subject to the publicity formality to allow for competing applications and to

for obtaining these authorisations is the general one laid down in the said regulations.

The procedure for obtaining a building permit is regulated in a general way in Legislative Decree 1/2004 and consists of the following steps:

- n It is initiated when the interested party makes an application (accompanied by the documentation required under Articles 161 and 166 of Legislative Decree 1/2004).
- n Once the application is submitted, the Local Corporation passes it on to the other authorities affected for them to report on the aspects for which they are competent.
- n The necessary legal and technical reports are issued.
- n The Local Corporation delivers a decision.

However, for exact details of the procedure, it is necessary to examine the regulations laid down in the municipal by-laws.

The procedure to obtain the Land Classification is regulated in Decree 242/2004 and consists of the following steps:

- n The process commences when the interested party submits an application to the Local Corporation together with the building permit application.
- n If an Environmental Impact Study or Integrated Environmental Authorisation is required, it is forwarded to the relevant environmental administration for the processing.
- n It is subject to a publicity procedure for 20 days. This formality may be performed jointly with the publication of the Environmental Impact Study.
- n Once these formalities have concluded, the full dossier is forwarded to the Regional Ministry

legislation is applicable to the granting of these authorisations.

The procedure for obtaining the Environmental Impact Statement is regulated in Law 4/2007, and consists of the following steps:

- n Preliminary enquiries to determine whether the project ought to be the subject of an Environmental Impact Study, and if so the content of that study.
- n Once it has been determined that the project must be subject to an Environmental Impact Assessment and the content of the latter is defined, the developer must submit the requisite Environmental Impact Study within three months.
- n This Study must be publicised and the requisite reports obtained.
- n Lastly, the Environmental Impact Statement is issued.

There is a simplified study for different projects, the difference lying in the content of the study conducted.

The procedure for granting of the Integrated Environmental Authorisation is regulated in Law 16/2002 and consists of the following steps:

- n An application is made to the body of the Autonomous Community responsible for planning.
- n The application is publicised.
- n Relevant administrations issue their reports (including the Local Corporations affected and the Water Authorities).
- n Preparation of a draft decision, which must explain the issues raised by the reports received.
- n The developer shall be given a hearing where he can

inform affected authorities (Local Corporation and Directorates-General).

Once the SWP is resolved (or where it is not required), the developer must then apply for administrative authorisation (Step II) which, unlike the general procedure, does not entail processing of the Environmental Impact Assessment. This second step is initiated with an application by the interested party which is once again subject to publication to allow for competing applications and for the information of affected administrations (unless the SWP has been processed).

Once the Administrative Authorisation is obtained, the developer must apply for project approval (Step III) which is publicised jointly with the Environmental Impact Study. Lastly, once the plant is built, an application is filed for the Commissioning Certificate (Step IV).

- n Decree 80/2007 regulates the procedure for **temporary electricity generation plants (Group III)**.

In accordance with that Decree, these plants do not require authorisation prior to construction but only notification to the relevant Provincial Delegation within 15 days of completion, indicating its purpose, main characteristics, location and duration of operation (which may not exceed three months).

Likewise, information concerning the dismantling of the plant must be forthcoming in ten days.

- n Royal Decree 842/2002 adopting the Low-voltage Electro-technical Regulation provides the

competent to make the final decision.

If the Local Corporation is competent to issue approval, it does not have to be sent to the Regional Ministry responsible for town and country planning.

Lastly, the procedure for a use and activities permit is regulated in Article 169 of Legislative Decree 1/2004. The procedure is essentially the same as for a building permit.

make any submissions he deems pertinent.

- n In the event of disagreement the submissions are passed on to the bodies that issued the reports for comment as they see fit.
- n Finally, the Administration issues a decision granting or refusing the Integrated Environmental Authorisation.

The procedure for obtaining an Activity Permit is regulated in Decree 2414/1961 of 30 November 1961 where the activity is considered unpleasant, unhealthy, harmful or dangerous, and consists of the following steps:

- n The developer submits an application to the Local Corporation.
- n Upon examining the application the Local Corporation decides either to reject it or process it.
- n If it decides to process it, it is publicised and reports are requested from the Local Head of Health-care and from the appropriate municipal experts depending on the nature of the application.
- n Once the file is complete it is forwarded to the Provincial Technical Services Commission in order to classify the activity and verify the reliability and effectiveness of the correction systems proposed.
- n Should the Commission reject these systems, it will arrange a meeting with the interested party and adopt a final decision as appropriate.
- n Once the decision is adopted, it will send the dossier back to the Local Corporation so that the latter may grant the license in accordance with the decision handed down by the Commission.

authorisation procedure for **Plants with a rated voltage of 1kV or less.**

This procedure does not require authorisation prior to construction. However, commissioning does require the installer to submit the documentation listed in Article 18 to the relevant body of the Autonomous Community.

As noted, the building of thermal energy generation plants does not require preliminary authorisation but only notification to the competent body of the Autonomous Community before it is put into service.

In particular, according to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, and RD 2060/2008 approving the Regulation of Pressurised Equipment, these installations only require the submission of a project to the relevant body of the Autonomous Community before installation in the cases described in Annex II. No prior notification is needed in other cases.

In order to commence operation, the documentation required under the aforementioned law must be submitted to the relevant body of the Autonomous Community. No decision is needed to authorise installation.

## TIME LIMIT FOR GRANTING

### INDUSTRY

According to **Decree 80/2007**, the time limit for granting of the authorisations regulated therein is as follows:

- n Six months for the **Administrative Authorisation** in the case of **Group I** plants (i.e. plants requiring an Environmental Impact Study or Public Utility Declaration for construction) in accordance with Article 10 of the aforementioned Decree. If no decision is forthcoming within that time limit, the authorisation is considered denied.

### TOWN PLANNING

According to Decree 242/2004, the limit for granting of the Planning Classification is three months as from the date on which the Regional Ministry receives the full dossier from the Local Corporation (where the Regional Ministry is responsible for issuing such classification).

Administrative silence means the application is denied (Article 43).

Where the Municipality is responsible for issuing this authorisation, the maximum limit is that stipulated for granting of the building permit given that this authorisation

### ENVIRONMENT

The environmental body of the Castile-La Mancha Regional Government has one month to issue the Environmental Impact Statement as from the public information period for the Environmental Impact Study if it had to be publicised by that body, or as from the remittal of the dossier where the Study was processed by the decision-making body.

If no decision is forthcoming by the legally established deadline date, the application shall be assumed denied by virtue of administrative silence.

However, the limit is two months where areas protected

- n Three months for **Final Design Approval** for **Group I** plants (Article 11). If no decision is forthcoming within that time limit, the authorisation is considered denied.
- n Three months for the **Administrative Authorisation and Final Design Approval** in the case of **Group II** plants (i.e. plants not requiring an Environmental Impact Study or Public Utility Declaration for construction) in accordance with Article 14 of the aforementioned Decree. If no decision is forthcoming within that time limit, the authorisation is considered denied.
- n One month for the granting of the Commissioning Certificate for Group I and Group II plants (Articles 12 and 15).

According to **Decree 58/1999**, the time limit for granting of the authorisations regulated therein is as follows:

- n Six months for approval of the **Strategic Wind Plan** (Article 9). If no decision is forthcoming within that time limit, the authorisation is considered denied.
- n Six months for approval of the Administrative Authorisation (Article 19). If no decision is forthcoming within that time limit, the authorisation is considered denied.
- n One month for granting of the Project Approval as from the issuance of the Environmental Impact Statement (Article 22).
- n One month for granting of the Commissioning Certificate (by subsidiary application of Decree 80/2007).

n

is incorporated in the procedure for granting of the building permit (Article 44).

Pursuant to Legislative Decree 1/2004, the maximum limit for the awarding of the building permit is that laid down in relevant Municipal By-laws meaning that each case must be examined individually.

However, according to Article 166 of the Legislative Decree, this limit may not exceed two months.

The time limit for granting of the use and activity permit will likewise be that laid down in municipal by-laws. According to Article 169, this limit may not exceed six months and where no provision is made in Municipal By-laws, the limit is three months.

under Law 9/1999 are affected.

The time limit for granting of the Integrated Environmental Authorisation is 10 months from the date of application. If no decision is forthcoming within that time, the application shall be deemed to be denied by virtue of administrative silence.

The time limit for of the classified activity permit is four months as from the date of application. If no decision is forthcoming within that time, a complaint about the delay may be lodged simultaneously with the Local Corporation and the Provincial Technical Services Commission, and the permit may be assumed to be granted by virtue of administrative silence upon the elapse of two months from the date of the complaint.

## FEES

### INDUSTRY

Fees relating to industrial matters are regulated by Law 7/2008 of 13 November 2008 regulating fees for industrial, energy and mining business in Castile-La Mancha.

#### Fees in respect of industry and energy:

- n The following constitute taxable events for this fee:
  1. The authorisation, commissioning and filing of industrial, energy and metrological plants at the relevant registries and enlargements, improvements and modifications thereof.
  2. The filing of special scheme electricity plants at the relevant registries.
- n Rates are charged in accordance with the following tariffs:
  - Registration of new industrial establishments.
  - Having regard to electrical services:
    - For administrative processing, filing at the registry and administrative checks of low-voltage plants.
    - Authorisation for low-voltage electricity generation, transmission and distribution plants, which varies on the basis of the total budget.
    - Approval of construction projects pertaining to high-voltage electricity generation, transmission and distribution plants. Fees vary on the basis of the total budget.
    - Public Utility Declaration of high-voltage electricity generation, transmission and distribution plants.

### TOWN PLANNING

We should note that for planning purposes there is no regional regulation for the charging of any fee for processing authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the establishment of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

One must therefore look to the regulations contained in the by-laws of each municipality.

### ENVIRONMENT

Regarding environmental matters, we should note that **no fee is payable** for processing of the Environmental Impact Assessment or the Integrated Environmental Authorisation

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

- Definitive filing at the Registry of Special Scheme Electricity Generation Plants.

3. Fees for pressurised devices.

- Administrative processing, registration, administrative checks and commissioning certificates for steam generators and other pressurised devices.

4. Fees for heating, cooling and hot water installations. Administrative processing, registration and administrative checks of plants (fees vary depending on whether or not the plant is associated with a project).

n **Accrual:** The fee is payable at the time the service constituting the taxable event is requested.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

### TOWN PLANNING

### ENVIRONMENT

According to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation for pressurised equipment and supplementary thermal instructions and RD 842/2002 approving the Regulation of Low-Voltage Electrical Installations both require that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is required from the Administration.



# **AUTONOMOUS COMMUNITY OF CATALONIA**

## AUTONOMOUS COMMUNITY OF CATALONIA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of Catalonia the following regulatory provisions are in force, which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources.

- § **Decree 351/1987**, of 23 November 1987 of the Department of Industry and Energy of the Regional Government of Catalonia regulating administrative procedures pertaining to electricity plants.
- § **Decree 308/1996** of 2 September 1996 of the Department of Industry, Trade and Tourism of the Regional Government of Catalonia laying down the administrative procedure for the authorisation of special scheme electricity generation plants.
- § **Decree 352/2001** of 18 December 2001 of the Department of Industry, Trade and Tourism of the Regional Government of Catalonia regulating the administrative procedure applicable to solar photovoltaic plants connected to the grid.
- § **Decree 174/2002** of 11 June 2002 of the Department of the Presidency of the Regional Government of Catalonia regulating the installation of wind energy in Catalonia.
- § **Decree 363/2004** of 24 August 2004 of the Department of Labour and Industry of the Regional Government of Catalonia regulating the administrative proceeding for the implementation of the low-voltage, electro-technical regulation.

#### TOWN PLANNING

The following regulatory provisions are applicable within the territorial limits of the Autonomous Community Catalonia:

- § **Decree 179/1995** of 13 June 1995 approving the Regulation of building, activities and services of Local Administrations in Catalonia.
- § Legislative Decree 1/2005 of **26 July 2005** establishing the Consolidated Text of the Planning Act of the Autonomous Community of Catalonia.
- § **Decree 305/2006 of 18 July 2006 adopting the Regulation of the Planning Act of the Autonomous Community of Catalonia.**
- § **Municipal by-laws which may have been enacted by Local Corporations.**

#### ENVIRONMENT

Besides the State legislation, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of Catalonia:

- § The Protected Areas Act of Catalonia, **Law 12/1985** of 13 June 1985.
- § **Decree 114/1988** of 7 April 1988 on Environmental Impact Assessment in the Community of Catalonia.
- § **Law 3/1998** of 27 February 1998 on the integrated intervention system of the Environmental Administration of the Regional Government of Catalonia, setting up an integrated intervention system in the environmental administration.
- § **Decree 136/1999** of 18 May 1999 establishing the General Regulation governing integrated intervention of the environmental administration of Catalonia.
- § **Decree 143/2003** of 10 June 2003 of the Department of the Environment of the Regional Government of Catalonia amending Decree 136/1999 approving the General Implementing Regulation of Law 3/1998 on the integrated intervention of the environmental administration and adapting its annexes.
- § **Law 4/2004** of 1 July 2004 regulating the process of adaptation of environmental accident activities, in accordance with Law 3/1998 of 27 February 1998 on integrated intervention of the environmental administration.
- § **Law 8/2005** of 8 June 2005 on Landscape protection, management and planning in the Community of

- § **Instruction 5/2006** on the transmission of electricity from individual photovoltaic plants using shared connection infrastructures (solar farms).
- § **Law 18/2008** of 23 December regulating the guarantee and quality of the electricity supply in the Autonomous Community of Catalonia.
- § **Order IUE/470/2009** of 30 October 2009 regulating implementation of the Regulation on pressurised equipment in Catalonia.
- § **Decree 147/2009** of 22 September 2009 regulating administrative procedures applicable to wind farms and photovoltaic plants in Catalonia.
- § **Order ECF/74/2010** of 1 February 2010 publicising the general fees of the departments of the Regional Government of Catalonia and of the Department of Economy and Finance.
- § **Legislative Decree 3/2008** of 25 June 2008 establishing the Consolidated Text of Public Fees and Prices in the Community of Catalonia.

Catalonia.

- § **Decree 343/2006** of 19 September 2006 implementing Law 8/2005 of 8 June 2005 on Landscape protection, management and planning and regulating landscape impact and integration studies and reports.
- § **Law 20/2009** of 4 December 2009 on Environmental prevention and control of activities (in *vacation legis* at present).

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures of plants which are the competence of the Autonomous Communities.

Article 133 of the Statute of Autonomy of Catalonia, approved by Organic Law 6/2006 of 19 July 2006, confers shared competences on the **Autonomous Community of Catalonia** in respect of energy but, in any case, includes:

- ⁂ The regulation of energy generation, storage and transmission activities, the granting of authorisations for plants which are contained fully within the territory of

### TOWN PLANNING

Article 149 of the Statute of Autonomy of Catalonia, approved by Organic Law 6/2006 of 19 July 2006, confers exclusive competences on the **Autonomous Community of Catalonia** in respect of territorial and landscape planning.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 144 of the Statute of Autonomy of Catalonia, approved by Organic Law 6/2006 of 19 July 2006, confers competences on the **Autonomous Community of Catalonia** for legislative and material implementation in the area of the environmental and competence to enact regulations provided additional protection.

Catalonia and the performance of inspection and control activities of all plants in Catalonia.

- n The regulation of energy distribution activity conducted within Catalonia, the awarding of authorisations for related plants and the performance of inspection and control activities of all plants in Catalonia.
- n Enactment of supplementary implementing legislation concerning the quality of energy supply services.
- n Promotion and management of renewable energies and energy efficiency.

Moreover, the Generalitat (Regional Government of Catalonia) participates by issuing a preliminary report in the authorisation procedure for energy generation and transmission plants which are not contained exclusively within the territory of Catalonia or where energy is consumed outside this territory.

The Generalitat also participates in the regulation and planning of the energy sector at national level insofar as the territory of Catalonia is affected.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

Additional Provision Three of Decree 174/2002 provides for the enactment of a simplified authorisation procedure for wind plants of less than 5 MW.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

However, we should note that Law 20/2009 of 4 December on Environmental prevention and control of activities, published in the Official Gazette of the Regional Government of Catalonia on 11 December 2009, is currently in *vacation legis* until 11 August 2010 (D.F.3<sup>a</sup>).

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

In accordance with Decree 308/1996, the establishment of

### TOWN PLANNING

Electricity generation plants using renewable sources of

### ENVIRONMENT

For the construction of plants for generation of electricity

**special scheme electricity generation plants** within the territory of the Autonomous Community of Catalonia with installed capacity of 100 MVA or below, requires the following authorisations:

- n Special Scheme Electricity Generation Plant status.
- n Filing at the Registry of Special Scheme Plants.
- n Preliminary administrative authorisation for the plant.
- n Commissioning.

In accordance with Decree 147/2009, the establishment of **wind energy electricity generation plants** with special scheme status with installed capacity of 50 MW or below, and ordinary regime plants with no output limitation, require the following authorisations:

- n Declaration of a Priority Development Area (Spanish acronym ZDP).
- n Award of Administrative Authorisation for the wind farm granting the right to establish a wind farm in a ZDP.
- n Special Scheme Electricity Generation Plant status.
- n Administrative authorisation and project approval.
- n Commissioning.
- n Filing of the plant at the Register of Special Scheme Generation Plants.

According to this same Decree 147/2009, the installation of **photovoltaic solar energy systems with output of over 100 kW**, with a direct on-site connection to the electricity grid and with the sole purpose of generating electricity, require the following authorisations:

- n Special Scheme Electricity Generation Plant status.
- n Administrative authorisation and project approval.
- n Commissioning.

energy require the following authorisations:

- n Building permit.
- n First use permit.

Where plants are located on non-developable land, the following authorisations are required:

- n **Specific project for public interest action.**
- n **Special Development Plan.** According to Decree 305/2006, this scheme is mandatory when the infrastructure in question is among those listed in Article 67(1)(2) of the Planning Act (the list includes electricity generation plants) affecting more than one municipality or different classes of land.

Also, according to Decree 147/2009, wind farms and photovoltaic plants with output over 100 kW also require a Special Plan.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n First use permit, depending on the planning impact of the proposed plant.

Action Project or Special Plan depending on plant characteristics where it is proposed to be located on non-developable land.

using renewable energy sources and associated facilities the following environmental authorisations are required:

- n **Environmental Impact Statement:** In addition to the plants and projects envisaged in Legislative Royal Decree 1/2008, pursuant to Decree 114/1988 within the territory of the Autonomous Community of Catalonia, the establishment of thermal power plants and other combustion plants with thermal output over 300 MW and, in general, all works and installations which could seriously harm the value enshrined in protected natural areas, require the said Statement.
- n **Environmental Authorisation:** According to Law 3/1998, **plants listed in Annex I** require Environmental Authorisation for initial establishment and any substantial change proposed for existing plants once authorised.

The following plants are among those listed in Annex I:

- Combustion plants, including combined cycle, with thermal combustion capacity over 50 MW.
- Cogeneration plants with electrical output over 50 MW.

- n **Environmental Permit:** According to Law 3/1998 and Decree 136/1999 the plants listed in **Annex II** of the Law require an Environmental Permit for initial establishment and any substantial change proposed for existing plants once authorised.

The following plants are among those listed in Annex II(1):

- Combustion plants, including combined cycle, with installed thermal capacity up to 50 MW.
- Cogeneration plants with thermal output up to 50 MW and over 15 MW.
- Steam generators with output of over 20 tonnes

- n Filing of the plant at the Registry of Special Scheme Generation Plants.

The installation of photovoltaic plants with an output of 100 kW or less is regulated by Decree 352/2001 and does not require any authorisation for construction or connection to the low-voltage grid. However, once installed, they do require the following authorisations:

- n Granting of the special scheme production status.
- n Administrative authorisation.
- n Commissioning certificate.
- n Filing at the Registry of Special Scheme Energy Generation plants.

Decree 363/2004 regulates the administrative procedure for the implementation of the low-voltage electro-technical regulation and, pursuant to the latter, no authorisation is needed for these plants prior to construction, but only the submission of certain documentation to the administration's inspection and control body before they are put into service.

According to Decree 351/1987 of 23 November 1987 of the Regional Government of Catalonia's Ministry of Industry and Energy, for the granting of high and low-voltage **administrative authorisations for electricity plants and their commissioning** (and their connection facilities) with a frequency below 101 HZ (cycles per second), the following authorisation rules apply depending on the type of plant:

- n *Private plants not provided essential electricity supply service:* commissioning requires a simple notification together with supporting evidence of having complied with applicable technical and safety requirements.
- n *Plants provided essential service with voltage up to 30 KV:* require administrative authorisation for implementation, enlargement or modification which is obtained using the abbreviated procedure regulated in

of steam per hour and heat generators with heat output of over 15 000 therms/hour.

- Wind farms.

The following plants are among those listed in Annex II(2):

1. Cogeneration plants with thermal output up to 15 MW and over 8 MW.
- Steam generators with output of over 4 tonnes of steam per hour and up to 20 tonnes of steam per hour.
  - Heat generators with heat output of over 3 000 therms/hour and up to 15 000 therms/hour.
  - Other types of electricity generation of those listed in Annexes I and II(1) with an output of over 200 kW.

- n **Environmental Notification:** The activities listed in **Annex III** of Law 3/1998 are subject to environmental notification.

The following plants are among those listed in Annex III:

- Cogeneration plants with thermal output of up to 8 MW.
- Steam generators with output of up to 4 tonnes of steam per hour.
- Heat generators with heat output of up to 3 000 therms/hour.

Other types of electricity generation of those listed in Annexes I and II(1)(2) with an output of up to 200 KW.

Article 5(1) of the said Decree, except for LV distribution grids. For LV distribution grids, submission of a detailed list of the new lines and repairs in the month of January each year is sufficient provided that certification to the effect that works were executed in accordance with technical and safety rules is appended along with required permits.

Once the project is executed and tests run, the operating authorisation or commissioning certificate is issued.

- n *Plants provided essential service with voltage over 30 KV are subject to the ordinary authorisation procedure laid down in Royal Decree 1955/2000 for implementation, enlargement or modification.* Operating authorisation or the issuance of the commissioning certificate is governed by the provisions applicable to plants up to 30 kV.

In the case of **thermal energy generation plants** (heating and/or cooling), we should note that the rules applying to this kind of plant (when the energy produced is put to industrial use or when it is used in buildings) do not require an authorisation prior to construction.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Decree 308/1996 of 2 September 1996 of the Regional Government of Catalonia's Department of Industry, Trade and Tourism, the **Directorate-General of Energy** of the Regional Government of Catalonia's Department of Industry, Trade and Tourism is competent to in authorise special scheme electricity generation plant status and filing at the Registry of Special Scheme Generation Plants. It is also competent to grant administrative authorisation prior to establishment of plants with output exceeding 5 000 kVa.

However, where output is 5 000 kVa or less, competence to

### TOWN PLANNING

The Local Corporation where the plant is located has competence to grant the building permit and first-use permit.

The relevant Territorial Planning Commission is competent to approve a specific public interest Action Project where required.

Approval of the Special Scheme lies with:

- n Where the Scheme contains general planning systems of supra-municipal interest, competence

### ENVIRONMENT

In accordance with Article 3 of Decree 114/1988 and the fourth D.A. of Decree 136/1999 of 18 May 1999, the **Environmental Commission** (Ponencia Ambiental) is the administrative body in Catalonia which is competent to issue the **Environmental Impact Statement**.

According to Law 3/1998 and Decree 136/1999, the **Regional Ministry of the Environment** has competence to grant the **Environmental Authorisation**.

According to Law 3/1998, the **Local Corporation** where the activity is located is competent to grant the

grant administrative authorisation lies with the **Territorial Delegation of Industry** which is also competent to grant the commissioning certificate for all plants regulated under Decree 308/1996.

According to Decree 351/1987, competence to grant administrative authorisation and commissioning of electricity plants lies with the **Territorial Service of the province where the plant is located**, unless generation output exceeds 5 000 KVA or transmission, transformation or distribution output is 220 KV or more or any output where the plant or installations affect more than one province, in which case competence lies with the **Directorate-General of Energy**.

According to Decree 174/2002, competence to approve the Priority Development Area lies with the **Government of the Generalitat**.

The Directorate-General of the management unit for energy is competent to grant administrative authorisation for wind farms.

Also, according to Decree 147/2009, the **Directorate-General of Energy** is competent to authorise the establishment of wind farms and their final design.

According to **Decree 147/2009**, the **Directorate-General of Energy** is responsible for preliminary administrative authorisation and approval of the final design for the installation of photovoltaic solar energy systems with output of over 100 kW and a direct connection to the electricity grid installed directly at the site for the sole purpose of generating electricity.

According to Decree 352/2001 of 18 December 2001, the **Unified Management Office (Spanish acronym OGU) for the relevant area** is competent to grant special scheme generation plant status, administrative authorisation and authorisation to operate in the case of photovoltaic plants with an output of 100 kW or less connected to the essential services grid, located within the territorial limits of the

for initial and temporary approval lies with the administration responsible for its drafting if the latter has competences in planning matters, and if not, the Territorial Planning Commission, except where more than one Commission is affected, in which case the initial approval is issued by the Regional Minister of Territorial Policy and Public Works.

The Regional Minister of Territorial Policy and Public Works is competent to grant final approval of these schemes in all cases.

- n Where the purpose of plans is to implement general planning systems of municipal interest, the Local Corporation is responsible for initial and provisional approval, while competence for final approval lies with the relevant Territorial Planning Commission.

**Environmental Permit.**



Community of Catalonia and which do not affect any other Autonomous Community. The OGU is also responsible for filing of the plant at the Registry of Special Scheme Generation Plants.

## INFORMATION MEASURES

### INDUSTRY

The procedure laid down in Decree 351/1987 for the granting of administrative authorisation and the commissioning certificate needed for the installation of electricity plants provided essential services with voltages over 30 KV, provides for the publication of an extract of the application in the Official Gazette of the Regional Government of Catalonia for a period of 30 days.

Decree 147/2009 regulating the implementation of **wind farms** provides that the approval of a Priority Development Area must be published in the Official Gazette of the Regional Government of Catalonia and in the Official State Gazette (BOE), marking the opening of the invitation to tender for authorisation for the installation of wind farms.

Applicants and the Local Corporation in question must be informed of the decision granting such authorisation for installation.

Application for administrative authorisation for the building of wind farms must also be publicised for 30 days in the Official Gazette of the Regional Government of Catalonia, in the Official State Gazette and on the bulletin board of the Local Corporations affected.

This application, the Environmental Impact Study and the

### TOWN PLANNING

According to Article 48 and following of Legislative Decree 1/2005, the installation project for **electricity generation plants on non-developable land** (of public interest), where the plant is not included in a Special Development Plan, must be **publicised by the Local Corporation for one month**.

Special schemes must be publicised for one month prior to approval.

### ENVIRONMENT

The Environmental Impact Study, as a separate document, must be included in the project subject to substantive authorisation and is to be publicised jointly with it (Article 3 of Decree 114/1998). **If public information is not envisaged in the substantive authorisation process, the environmental impact study will be publicised for 30 days by the Environmental Commission.**

According to Law 3/1998, the Environmental Commission must assess the application for **environmental authorisation** formulated by the applicant and the environmental impact study and must then publicise it for 20 days in the Official Gazette of the Regional Government of Catalonia and inform neighbours adjacent to the site of the activity for 10 days.

The decision regarding the Environmental Authorisation must be notified to the interested party and to the Local Corporation.

In accordance with Law 3/1998, the **environmental license** authorisation procedure requires publicity for 20 days and information provided to neighbours for 10 days.

Special Development Plan must all be publicised in this same announcement.

Where the installation of a **photovoltaic plant** must undergo an environmental assessment procedure, the administrative proceeding applied is regulated under [Article] 12 of Decree 147/2009, i.e. it is subject to a publicity procedure for 30 days through publication of the announcement in the Official Gazette of the Community of Catalonia (DOGC), in the Official State Gazette (BOE) and on the bulletin boards of the Local Corporations affected.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

Having regard to the procedure envisaged in Decree 351/1987 for granting of administrative authorisations and commissioning certificates required for the installation of electricity plants with voltage over 30 KV affecting essential services, **these may be publicised jointly with the Environmental Impact Assessment or Public Utility Declaration when required.**

During the processing of applications for plants with installed capacity over 25 MVA, Decree 308/1996 requires that a report on the impact of the plant on unified operation and energy planning objectives be requested from the Directorate-General of Energy of the Ministry of Industry and Energy.

Having regard to the processing of **wind farms**, Decree 147/2009 provides the following cooperation mechanisms:

- <sup>n</sup> First of all, the Government Decision approving Priority Development Areas must be notified to the Local Corporations.
- <sup>n</sup> During the processing of administrative authorisation for the construction of wind farms, prior to the public information stage, the Special Development Plan is forwarded to the relevant Territorial Planning

### TOWN PLANNING

Regarding the processing of **building permits**, we should note that according to Decree 179/1995, where another municipal permit is needed these are to be processed jointly in a single dossier.

Legislative Decree 1/2005 provides that where **Specific Public Interest Action Projects** must be processed, Local Corporations may grant building permits without preliminary approval. However, the two authorisations may be processed jointly, and a conditional permit will be granted upon project approval.

Both this Legislative Decree and Decree 305/2006 provide that where the Environmental Impact Assessment of the project is mandatory, the two projects are to be publicised jointly.

Legislative Decree 1/2005 and Decree 305/2006 provide that where approval of the **Special Schemes** is required, such approval must precede granting of the municipal planning permit.

In addition, the procedure for these Special Plans also entails hearings for the Local Corporations affected in

### ENVIRONMENT

According to Law 3/1998, although the **environmental authorisation** is granted by the Generalitat, the interested party must submit the application to the Local Corporation for the latter to issue a binding report on all aspects within its purview, which it will then forward to the appropriate Unified Environmental Management Office for further processing.

The Local Corporation must also draft a report on all aspects of the activity that affect issues within its purview along with the other mandatory reports, including any necessary reports on the prevention of fire, serious accidents and health protection.

The integrated environmental authorisation procedure provides for the issuance of an Environmental Impact Statement, when required.

According to Law 3/1998, where the Local Corporation is responsible for the **environmental permit** procedure and where the activities are among those listed in **Annex II(1)**, the regional body shall issue a mandatory report which is binding if unfavourable or if it imposes preventive control or guarantee measures.

The activities listed in Annex II(2) are not subject to any

Commission for preliminary approval.

- <sup>n</sup> Also prior to the public information stage, the Environmental Impact Study is forwarded to the Department responsible for environmental issues in order to consult with the affected administrations and with other public or private natural or legal persons associated with environmental protection in order to determine the scope and content of the study.
  - <sup>n</sup> The application for administrative authorisation, the Environmental Impact Study and the Special Scheme are publicised jointly.
  - <sup>n</sup> At the same time as the public information procedure, the body responsible for energy issues sends the offprints to the administrations, bodies and public service or general interest undertakings for them to report on any aspects that may affect them. In any case, a report is requested from the Local Corporations affected and the departments responsible for agricultural and cultural affairs.
- The Directorate-General of Architecture and Landscape is also requested to issue a report regarding impact on and integration in the landscape.
- <sup>n</sup> Industrial approval of the plant may not be granted before approval of the Special Development Plan and emission of the Environmental Impact Statement.

The following coordination mechanisms are envisaged for **photovoltaic plants** regulated under Decree 147/2009:

- <sup>n</sup> Once the application for administrative authorisation of the project is submitted, the body responsible for energy issues forwards the Special Development Plan to the Territorial Planning Commission so that the competent planning body may perform the preliminary check in the event that it is located on non-developable land.
- <sup>n</sup> The Special Scheme and the project's administrative

cases where the Plan has not been processed by the Municipal Corporation.

When Plans are initially approved by the Local Corporations, a report must be requested from the appropriate Territorial Planning Commission.

During the public information stage, reports are likewise requested from bodies affected by reason of their sectoral competences.

Also, where these Plans require an environmental study or report, the latter must be approved or obtained before the final approval of the Scheme.

Lastly, we should note that Decree 147/2009 requires final approval of the Special Plan before the approval of building authorisation for photovoltaic and wind electricity generation plants regulated therein.

prior administrative intervention by the environmental body of the Regional Government. These activities are subject to a report by the relevant environmental body of the Local Corporation in municipalities of 50 000 or more inhabitants or by the environmental body of the district Council in all other municipalities. The report by the district Council is binding if unfavourable or if it imposes preventive control or guarantee measures (Article 29(2)).

In any case, if an environmental impact statement is required, it is issued by the Environmental Commission.

authorisation application are publicised jointly.

- While publicity is ongoing, the body responsible for energy issues forwards a copy of the documentation submitted by the applicant to the bodies which could be affected in light of project characteristics. In any case, a report must be requested from the departments responsible for agriculture, territorial policy and public works, environment and culture.

A report is likewise required of the department responsible for industrial and entrepreneurial matters regarding the industrial and entrepreneurial appropriateness of the project in the case of photovoltaic plants located on non-developable land and land considered suitable for the location of these plant by the Urban Planning Scheme or by the Special Development Plans.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

Pursuant to Decree 147/2009, the following process is followed for the instalment of **wind farms**:

- Preliminary Step:** First of all, the Priority Development Area is approved by Government Decision and is published in the DOGV and the BOE, marking the commencement of the tender process for the authorisation of wind farms in the area.

Interested parties must submit their proposals in response to the call within the given time limit.

The Selection Committee must rule on the validity of the proposal and has 10 days to request any clarifications.

Once this limit has elapsed, the Committee announces which applicant(s) are accepted and which are excluded. In any case, this announcement must be made within a month of the deadline date for submission of proposals.

### TOWN PLANNING

Pursuant to Decree 179/1995, the following process is followed for approval of the **planning permit**:

- An application is submitted by the interested party along with the technical documentation required of the action pursuant to local by-laws, and to the sectoral legislation if applicable.
- The Local Corporation requests internal or external, mandatory or discretionary reports as needed.
- In the light of these reports, the Local Corporation decides on the granting of a building permit.

Pursuant to Legislative Decree 1/2005 and Decree 305/2006, the following procedure applies to the approval of Public Interest **Action Projects**:

- The project is submitted to the Local Corporation, which publicises it for one month. The project for these actions and, where applicable, the special

### ENVIRONMENT

The procedure for granting of the **Environmental Authorisation** is laid down in Law 3/1998 and consists of the following steps:

- An application is submitted to the Local Corporation, which forwards it to the Unified Environmental Management Office, which conducts a formal check of the documentation.
- Then, the application and the environmental impact study are assessed and publicised for 20 days and reports are requested from those organisations and bodies which could be affected, and in any case from the bodies responsible for fire prevention, health protection and the prevention of serious accidents and from the municipal body responsible for urban environmental protection (Articles 15-17 of Law 3/1998).
- The Local Corporation issues a binding report on all

The Committee will make its selection from among the pre-selected proposals, will issue a draft decision and will arrange for a hearing of the applicants.

The draft decision, together with submissions, is forwarded to the Directorate-General, who then grants administrative authorisation for installation of the wind farm.

- n **Step I (Application for Administrative Authorisation for construction):** Following notification of the decision awarding installation of the wind farm, developers submit their application for administrative authorisation and approval of the project to the Business Management Office.

Before commencement of the public information period, the body responsible for energy matters forwards the Special Development Plan (should the plant be located on non-developable land) to the Territorial Planning Commission for the competent body to issue preliminary approval. This approval must be issued within one month. If no decision is forthcoming by that time, approval is assumed by virtue of administrative silence.

The department responsible for environmental issues is also notified of the Environmental Impact Study so that it can make enquiries and determine the scope of the study.

- n **Step II: (Publicity).** Once the foregoing formalities are concluded, the application, the Special Development Plan and the Environmental Impact Study are publicised.

At this stage, reports are requested from the relevant administrations, bodies and public or general interest service undertakings affected by the proposed action. In any case, a report is requested from the Local Corporations affected and the bodies responsible for agricultural and cultural affairs.

development plan formulated to carry them out, must include the following documentation:

- A report from the Department of Agriculture, Livestock and Fisheries if it is not included in a sectoral agricultural plan.
- A report from the water authority if the action affects classified aquifers, vulnerable areas or sensitive areas so declared in accordance with the applicable legislation.
- A report from the Geological Service of Catalonia if the action affects paleontological sites or geological points of interest.
- Any other reports required under the sectoral legislation.
- n The Local Corporation is responsible for issuing preliminary project approval, while final approval is in the hands of the Territorial Planning Commission, which must so decide within three months of the date of submission of the complete dossier.

Legislative Decree 1/2005 and Decree 305/2006 lay down the following procedure for approval of Special Plans:

- n The Project is submitted to the competent body for preliminary approval.
- n Once preliminary approval is granted, it is publicised for one month and reports are requested from the bodies affected by reason of their sectoral competences, which have one month to respond.

At the same time, a hearing is arranged for Local Corporations bordering the municipality where the Plan is to be implemented.

A report is also requested from the Local Corporation affected in the event that the latter did not have the authority to issue the preliminary

aspects within its purview within a maximum of two months as from the date of application (Article 13 of Law 3/1998) and forwards it to the appropriate Unified Environmental Management Office (Spanish acronym OGAU).

- n Once the public information process is concluded, the OGAU forwards any submissions received to the Environmental Commission and to all the other administrations that took part in the evaluation of the project.
- n The Environmental Commission assesses the documentation, draws up the Environmental Impact Statement (if required) and formulates a draft decision.
- n The OGAU informs stakeholders and the Local Corporation of the draft decision inviting their submissions, which are sent to the Environmental Commission for assessment. The draft decision is then sent to the Regional Minister of the Environment.
- n The Regional Minister of the Environment decides on the Environmental Authorisation.

The procedure for obtaining an **Environmental permit** is regulated in Article 26 and following of Law 3/1998, and consists of the following steps:

- n Submission of an application to the Local Corporation. The application along with accompanying documentation is publicised for 20 days (Article 28 of Law 3/1998) after which it is sent to the regional body for drafting of the mandatory report (in the case of activities listed in Annex II(1)). This report is binding if it is unfavourable or if it imposes preventive control or guarantee measures.
- n The activities listed in Annex II(2) are not subject to any prior administrative intervention by the environmental body of the Regional Government.

A report is also requested from the Directorate-General of Architecture and Landscape regarding impact on and integration in the landscape.

- n **Step III (Decision):** Once the public information step is concluded, the Environmental Impact Statement is issued and the Special Development Plan approved, Administrative Authorisation for project construction is granted.

The granting of this authorisation implies recognition of special scheme plant status in cases where output is below 50 MW.

- n **Stage IV (Operation):** Once construction is complete, application is made for Commissioning of the Wind Farm at the Business Management Office and filing at the Registry of Special Scheme Generation Plants.

This application is forwarded to the body responsible for making the decision.

Developers of wind plants which do not form part of a Priority Development Area, and where the wind energy environmental Installation Map in Catalonia defines the proposed site as a compatible area or conditional installation area, wind energy projects may be submitted for a maximum of five wind turbines with a maximum output of 10 MW and must be situated at a distance of at least two kilometres from the next wind farm. Prior to submission of the application, proposed farms must contact the department responsible for environmental matters and request that it rule on the need to subject the project to an environmental assessment and a bird-life study.

If they are required, it is processed in accordance with the procedure described in the foregoing (as from Step I) and, if not, it will follow the same procedure envisaged for photovoltaic plants as regulated in Decree 147/2009.

The following procedure applies to the processing of **photovoltaic plants** regulated under Decree 147/2009:

approval.

- n Once these formalities are completed, preliminary approval is granted and the application is then forwarded to the competent body for final approval.

Where Special Plans are processed for the installation of a **Wind Farm**, pursuant to Decree 147/2009 processing includes the following particularities:

- n The Plan is submitted to the Business Management Office.
- n It is then forwarded to the body responsible for energy matters, which in turn sends the documentation to the body responsible for planning for initial approval. If a decision is not forthcoming in a month, approval is assumed by virtue of administrative silence.
- n Following approval, it is publicised together with the Environmental Impact Study and the application for industrial authorisation.
- n In the light of the results of this latter procedure, it is forwarded to the Territorial Planning Commission for review.
- n Then, when the Environmental Impact Statement is issued, it is notified to the department responsible for territorial policy and public works for final approval of the Special Plan.

Where processing involves a photovoltaic plant as described in Decree 147/2009, processing of the Special Plan includes the following particularities:

- n The developer submits the Special Plan together with the application for building authorisation for the photovoltaic plant to the Business Management Office.
- n This Office forwards the application to the body responsible for energy matters, which in turn sends

These activities are subject to a report by the appropriate environmental body of the Local Corporation in municipalities of 50 000 or more inhabitants or by the environmental body of the district Council in all other municipalities. The report by the district Council is binding if unfavourable or if it imposes preventive control or guarantee measures (Article 29(2)).

- n The Local Corporation formulates its draft decision in the light of the submissions and reports received, and it is then forwarded to stakeholders and the OGAU in the case of activities listed in Annex II(1) or to the District Council in the case of activities listed in Annex II(2), which have 15 days to make proposals.
- n After assessing submissions, the Local Corporation issues its decision on the environmental permit.

In accordance with Decree 147/2009, wind farms installed in Priority Development Areas must obtain an **Environmental Impact Statement** before authorisation to build is issued.

- n To that end, before the period of public information on the project, the body responsible for energy issues informs the environmental body of the environmental impact study submitted so that it can make the necessary enquiries to determine its scope.
- n If in the light of these enquiries it is determined that the study must be broadened, it is sent to the applicant.
- n Following the period of public information on the project, the Environmental Impact Study is sent to the environmental body along with any submissions so that the Environmental Commission can issue the Environmental Impact Statement.

This procedure also applies to photovoltaic solar energy systems with output of over 100 kW, connected to the

n **Step I (Application):** The developer submits his application for special scheme plant status, administrative authorisation for the plant and building project approval to the Business Management Office and, if required, application for processing of the Special Development Plan. This Office will then forward the dossier to the body responsible for energy matters.

n **Step II (Processing):** The body responsible for energy matters forwards the Special Development Plan (where one is required) to the Territorial Planning Commission for the competent body to issue preliminary approval. If preliminary approval is not forthcoming in a month, approval is assumed by virtue of administrative silence.

Once preliminary approval is issued for the Special Plan, the body responsible for energy issues publicises the project.

At the same time, a copy of all the documentation is sent to any bodies which could be affected inviting their comments on the plant. Reports are requested, among others, from the departments of agriculture, territorial policy and public works on the plant's impact and landscape integration, from the department responsible for environmental affairs on the environmental suitability of the project, and from the cultural body and, where appropriate, from the department responsible for industry and business matters.

Once the public information procedure is concluded, a hearing is arranged with the Local Corporation and then with the developer.

n **Step III (Decision):** Once the foregoing formalities are concluded, the dossier is forwarded to the bodies responsible for planning matters for them to give final approval of the Special Plan. Following that approval, the body responsible for energy matters will decide on the application for administrative authorisation and project approval, which is then published in the Official

the Special Plan to the Territorial Planning Commission competent to grant preliminary approval (one month deadline, administrative silence meaning approval).

n Following preliminary approval of the Plan, it is publicised jointly by the body responsible for energy matters.

n Once the public information period is concluded and reports have been received, the body responsible for energy matters will arrange a hearing with the Local Corporation to discuss the Special Plan (one month).

n At the end of that time, the full dossier is sent to the competent planning body for final approval.

electricity grid and installed directly on-site for the sole purpose of generating electricity where these require the Environmental Impact Statement.

Pursuant to Article 12 and following of Decree 147/2009, wind farms which are not incorporated in a Priority Development Area consisting of more than five wind turbines or with a maximum output of 10 MW, require a decision by the department responsible for environmental matters regarding the need for an environmental impact assessment before the application can be made.

To obtain the **environmental notification**, the owner of the plant must simply communicate commencement of activity and provide the following documentation at least one month before commencing operations:

- n Description of the activity in the form of a technical project or technical documentation.
- n Technical certification proving that plants and activity comply with all applicable environmental requirements and any other requirements stipulated in the applicable legislation.

Gazette of Catalonia.

Granting of this authorisation implies granting of status as a special scheme plant.

- n **Step IV (Commissioning):** Once the plant is built, application for commissioning and filing at the Registry of Special Scheme Generation Plants of Catalonia is submitted to the Business Management Office, which forwards the application to the appropriate Territorial Services.

The territorial services are given one month to inspect the plant and, if all is in order, will issue the Commissioning Certificate and will contact the administrative unit of the department responsible for energy matters to recommend filing at the Registry of Special Scheme Generation Plants.

The following procedure, laid down in Decree 308/1996, is followed in the case of special scheme electricity generation plants with installed capacity of 100 MVA or less:

- n First, an application is made for special scheme electricity generation plant status to the Director-General of Energy.
- n Where plant output exceeds 25 MVA, a report on the impact of the plant on unified operation and planning objectives is requested from the Directorate-General of Energy at the Ministry of Industry and Energy.
- n An application may be made at the same time for filing at the Register of Special Scheme Generation Plants.
- n Subsequently, or together with the other applications, the developer may apply for preliminary administrative authorisation. This application is submitted at the appropriate Unified Management Office, which then forwards it to the body responsible for the decision.
- n Once built, the owner applies for a commissioning certificate.



**Photovoltaic plants with an output under 100 kW** are regulated by the procedure laid down in Decree 352/2001, whereby once the plant is built, the owner submits the dossier for the photovoltaic plant to the Unified Management Office in order to obtain special scheme plant status, administrative authorisation, the commissioning certificate and to have it filed at the Registry of Special Scheme Generation Plants.

The Office checks the documentation and then stamps the dossier to grant special scheme generation plant status, administrative authorisation and the commissioning certificate.

The Office also files the plant at the Registry and provides the owner with supporting documentation verifying such registration and forwards all documentation to the Directorate-General of Energy and Mines or to the appropriate Territorial Delegation of Industry.

Filing of the plant at the Registry serves as proof of having complied with administrative obligations.

The territorial body responsible for energy matters then inspects the plant to verify compliance with the applicable regulations. Should anomalies be detected, a deadline may be given to correct them or, depending on their seriousness, the commissioning certificate and all other authorisations may be withdrawn.

However, this procedure does not apply to **Solar Farms** (groupings of photovoltaic panels with an output of 100 kW or less which transmit energy to the same high-voltage grid connection), which are governed by the procedure laid down in Decree 308/1996 pursuant to Instruction 5/2006.

Hence, these plants require joint industrial authorisation prior to installation.

Specifically, an application for the issuance of Special Scheme plant status and administrative authorisation for each of the plants is submitted to the Business Management Office. This Office forwards applications to the relevant Territorial

Service, which then checks the documentation and issues a report to the Directorate-General of Energy and Mines, which in turn rules as to whether the granting of special scheme status, administrative authorisation and provisional filing at the Registry is appropriate.

Once construction is complete, an application for commissioning and definitive filing is submitted at the Registry to the Business Management Office, which checks the documentation and forwards the dossier to the Territorial Services, which inspect the plant and issue the Commissioning Certificate. These Services also inform the application for registration and send a copy of the commissioning certificate and this report to the Directorate-General of Energy and Mines, which is responsible for definitive filing.

**Decree 363/2004** lays down the administrative procedure for implementation of the LV electro-technical regulation to be applied to the construction, inspection and maintenance of low-voltage electricity distribution, reception and generation plants for own use and consumption and governing the action of installation undertakings (filed at the registry of low-voltage installation undertakings pursuant to Article 12 of Decree 363/2004) within the territorial limits of Catalonia.

This procedure simply requires the submission of the documentation required by the Decree to the inspection and control body appointed by the Administration. For certain plants, this inspection and control body is required to issue a favourable report prior to commissioning.

Having regard to **connection facilities for the transmission** of electricity in the Autonomous Community of Catalonia, Article 19 of Law 18/2008 of 23 December 2008 on the reliability and quality of the electricity supply provides that administrative authorisation of electricity distribution and transmission facilities over 66 kV must be publicised, and a joint hearing must be arranged for all administrations and bodies affected, unless the applicant undertaking proves it has all the requisite permits.

It is also possible (Article 21) for the Regional Minister of the department in charge of energy matters to declare "general interest" status for secondary transmission projects with a "rated voltage of 220 kV and over but less than 380 kV" and electricity substations or distribution facilities urgently needed to guarantee electricity supplies.

As noted, the building of **thermal energy generation plants** does not require preliminary authorisation but only notification to the competent body of the Autonomous Community before it is put into service.

In particular, according to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, a project is required for the commissioning of newly built thermal installations and the modification of already existing ones where the rated thermal output to be installed for heating or cooling is over 70 kW. Where the rated thermal output to be installed for heating or cooling is between 5 kW and 70 kW, a technical memorandum will suffice in lieu of the project. The installation certificate must be registered with the competent body of the Autonomous Community where the installation is located and the installation firm is required to submit certain documentation.

Once the documentation submitted has been checked, the installation certificate is registered by the competent body of the Autonomous Community and the installation may be put into service.

Presentation of the above documentation is not mandatory to demonstrate compliance with the regulations to the competent body of the Autonomous Community in the case of heating or cooling installations with a rated thermal output of less than 5 kW, hot water installations using instantaneous heaters, accumulation heaters and immersion heaters where the rated thermal output of each individually or their sum is 70 kW or less, and solar systems composed of a single prefabricated element.

RD 2060/2008, adopting the Regulation of Pressurised

Equipment applies to thermal installations which are not located in buildings. Moreover, Order IUE 470/2009 of 30 October 2009 provides that these installations do not generally require preliminary administrative authorisation for construction, enlargement, modification or commissioning. Before construction, simple verification of compliance with safety conditions must be submitted to the relevant competent Autonomous Community body if pressurised equipment belonging to categories I to IV listed in Article 9 and Annex II of Royal Decree 769/1999 of 7 May 1999 is used.

On-site tests must be performed before commencement of operation.

## TIME LIMIT FOR GRANTING

### INDUSTRY

According to **Decree 308/1996**, the time limit for the granting of the authorisations regulated therein is as follows:

- n **Six months** to obtain Special Scheme Electricity Generation Plant status. If no decision is forthcoming within that time limit, the authorisation is considered granted.
- n **One month** for filing at the Registry of Special Scheme Generation Plants. If no decision is forthcoming within that time limit, the plant is considered registered.

According to Decree 147/2009, the time limit for the granting of industrial authorisations for **Wind Farms** is as follows:

- n **One month** to declare the admission of applications as from the deadline date for the submission of applications to develop a Priority Development Area.
- n **Three months** as from the deadline date for the submission of applications to grant administrative authorisation for the installation of a wind farm.

### TOWN PLANNING

According to Article 8 of Decree 179/1995, **building permits requiring a project are granted or denied on a reasoned basis within two months; all others must be issued within one month**. If no express decision is forthcoming within those time limits, permits are considered granted by virtue of administrative silence without prejudice to the provisions of [Article 5\(2\)](#) laying down the applicable common administrative procedure ("In no case may planning rights be considered acquired by virtue of administrative silence which violate this Law or urban planning regulations").

According to Decree 179/1995, the time limit for granting of the **First Occupation Permit** is **one month**, after which the permit is considered granted if no express decision is forthcoming.

In accordance with Legislative Decree 1/2005 and Decree 305/2006, the Local Corporation is competent to issue **preliminary approval** for a Specific Public Interest Action Project within **two months** of the end of the period designated for public information. If approval is not

### ENVIRONMENT

The environmental body of the Autonomous Community of Catalonia has **one month** to issue the environmental impact statement as from conclusion of the public information period for the environmental impact study.

In accordance with Article 21 of Law 3/1998, the maximum limit to issue a decision on the **environmental authorisation** is **six months** from the date of submission of the application, unless the complexity of the case warrants an extension for no longer than half of the original period. If no decision is forthcoming within the established limit, authorisation is considered granted.

In accordance with Law 3/1998, the **environmental permit** must be granted and notified within **four months** of the application's date of submission (with an extension in the case of exceptional circumstances). If it is not, it will be considered granted.

In accordance with Decree 147/2009, the Environmental Impact Statement pertaining to wind farms and photovoltaic plants regulated therein must be issued within **two months** of the date the Environmental Commission receives the

- n **One month** as from the issuance of the Environmental Impact Statement for the body responsible for energy issues to rule on administrative authorisation for the installation of a wind farm and for approval of the final design.

In accordance with this Decree, the limit for industrial authorisations for photovoltaic plants over 100 kW is as follows:

- n **One month** as from the end of the deadline for the issuance of a decision on the administrative authorisation and project approval application.
- n **One month** from the date of application for the award of the Commissioning Certificate.
- n Pursuant to Decree 351/1987, the time limit for the issuance of the administrative authorisation and commissioning certificate for electricity plants up to 30 KV affecting essential service is **one month**. If no decision is forthcoming within that time limit, the administrative authorisation is considered granted.

forthcoming, the interested party may request that the Territorial Planning Commission continue forward with the process.

**Final approval** will be within **three months** after the Commission is provided with the complete dossier.

According to this same regulation, the time limit for preliminary approval of the **Special Plan** is three months from the reception of the full dossier if basic urbanisation works are not required, and four months if they are.

Lastly, the limit for final approval of the Plan is two months from the end of the period designated for public information where the Territorial Commission is the competent authority, provided that there is an environmental impact statement if one is required. If no decision is forthcoming by the time limit, the Plan is considered approved by virtue of administrative silence.

Where the Generalitat is responsible for approval, the time limit for final approval is two months from the end of the period designated for public information, unless the body originally competent has already completed that step, in which case the time limit is three months from the date the Commission receives the full dossier.

Where Special Plans are processed for approval of a wind farm or photovoltaic plant regulated under Decree 147/2009, preliminary approval must be issued within one month from the date when the environmental body files the request with the competent planning body. If no decision is forthcoming by the time limit, approval by virtue of administrative silence is granted.

Final approval must be issued within one month of the date of forwarding of the Environmental Impact Statement. If it is not, final approval is granted by virtue of administrative silence.

administrative dossier.

## FEES

### INDUSTRY

Legislative Decree 3/2008 of 25 June 2008 adopting the consolidated text of the Public Fees and Prices Act of the Generalitat of Catalonia, provides that such fees correspond to general administrative processing.

When implementing this Legislative Decree the Department of Economy and Finance of the Generalitat of Catalonia enacted the Order of February 2010 whereby the fees of this department are published.

These fees include one for the rendering of authorisation services pertaining to plants and their filing in the Registry of industrial establishments.

In particular, fees for new plants or enlargements are established on the basis of the value of the plant or enlargement express in Euro.

For the filing of plants which are not large enough to require a technical project, the fee is 50% of the amount resulting from the calculation described in the preceding paragraph.

### TOWN PLANNING

We should note that for planning purposes there is no regional regulation for the charging of any fee for processing authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the establishment of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

One must therefore look to the regulations contained in the by-laws of each municipality.

Having regard to the Tax on Structures, Installations and Works (Spanish acronym ICIO), there is no regional regulation and therefore one must look to Article 100 and following of Legislative Royal Decree 2/2004 of 5 March 2004 establishing the consolidated text of the Law Regulating Local Public Finance Departments.

### ENVIRONMENT

Legislative Decree 3/2008 of 25 June 2008 adopting the consolidated text of the Public Fees and Prices Act of the Generalitat of Catalonia, approves the following fees related with environmental authorisations:

- n For the issuance of environmental impact statements and decisions determining that a project does not require an environmental impact statement. There is a fixed fee for the issuance of these decisions.

This fee is not payable for actions subject to Law 3/1998.

- n For the issuance of environmental authorisation for activities. There is a fixed fee for these decisions.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

Pursuant to Decree 352/2001 and Decree 363/2004, the documentation which must be submitted to the Administration for the commissioning of photovoltaic plants with output below 100 kW and low-voltage electricity plants must be drawn up by licensed professionals. This means a photovoltaic panel

### TOWN PLANNING

### ENVIRONMENT

installer and a low-voltage installation company.

According to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation of pressurised equipment and supplementary thermal instructions and RD 842/2002 approving the Regulation of Low-Voltage Electrical Installations both require that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is required from the Administration.

# **AUTONOMOUS COMMUNITY OF VALENCIA**



## AUTONOMOUS COMMUNITY OF VALENCIA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of Valencia, the following regulatory provisions are in force which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) plants using renewable energy sources.

- n **Order of 11 July 1995** on recognition of status and filing at the Registry of Special Scheme Generation Plants.
- n **Decision of 26 July 2001** of the Government of Valencia establishing the Wind Plan of the Community of Valencia.
- n **Decree 88/2005** of 29 April 2005 establishing the authorisation procedures for electricity generation, transmission and distribution plants for which the Generalitat (Regional Government of Valencia) is responsible.
- n **Decree 177/2005** of 18 November 2005 of the Council of the Generalitat regulating the administrative procedure applicable to certain solar photovoltaic plants.
- n **Order of 4 January 2007** of the Regional Ministry of Infrastructure and Transport laying down the rules to be applied by the Valencia Energy Agency.
- n **Order of 6 June 2008** laying down supplementary rules applicable to the filing of photovoltaic solar plants connected to the grid at the Registry of

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of the Community of Valencia:

- n **Law 4/2004** of 30 June 2004 of the Generalitat on Land Use Planning and Landscape Protection.
- n **The Non-Developable Land Act, Law 10/2004** of 9 December.
- n The Town Planning Act of Valencia, **Law 16/2005** of 30 December 2005.
- n **Decree 67/2006** of 12 May 2006 adopting the Town and Country Planning and Management Regulation.
- n Municipal by-laws.

#### ENVIRONMENT

Besides the State regulations, the following regulatory provisions shall be applicable within the territorial limits of the Community of Valencia:

- n The Environmental Impact Act of Valencia, **Law 2/1989** of 3 March 1989.
- n **Decree 54/1990** of 26 March 1990 of the Council of the Generalitat of Valencia establishing the list of unpleasant, unhealthy, harmful or dangerous activities in compliance with Article 1 of Law 3/1989 of 2 May 1989 on Classified Activities.
- n **Order of 3 January 2005** issued by the Regional Ministry of Land use Planning and Housing laying down the minimum information to be contained in environmental impact studies submitted to this Regional Ministry.
- n **Law 2/2006** of 5 May 2006 on Pollution Prevention and Environmental Quality.
- n **Decree 162/1990** of 15 October 1990 issued by the Council of the Generalitat of Valencia establishing the Implementing Regulation of the Environmental Impact Act, Law 2/1989 of 3 March 1989.

Special Scheme Electricity Generation Plants of the Community of Valencia.

- n **Order of 10 June 2008** amending the Order of 6 June 2008 laying down supplementary rules applicable to the filing of photovoltaic solar plants connected to the grid at the Registry of Special Scheme Electricity Generation Plants of the Community of Valencia.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 49(1)(16) of the **Statute of Autonomy of the Community of Valencia**, approved by Organic Law 5/1982 of 1 July 1982 and amended by Organic Law 1/2006 of 10 April 2006, confers exclusive competence on the Autonomous Community of Valencia in respect of energy generation, distribution and transmission plants where the transmission remains within the Community and its exploitation does not affect another Autonomous Community.

Article 50(5) of the Statute confers competences for legislative and material implementation in matters of mining and energy regulation.

### TOWN PLANNING

Article 49(1)(9) of the **Statutes of Autonomy of the Community of Valencia**, approved by Organic Law 5/1982 of 1 July 1982 and amended by Organic Law 1/2006 of 10 April 2006, confers exclusive competence on the Generalitat of Valencia in respect of land use and coastal planning, urban development and housing.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 50(6) of the **Statute of Autonomy of the Community of Valencia**, approved by Organic Law 5/1982 of 1 July 1982 and amended by Organic Law 1/2006 of 10 April 2006, confers competence for legislative and material implementation in matters of environmental protection without prejudice to the powers of the Generalitat to establish additional protection regulations.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

## INDUSTRY

Pursuant to Decree 88/2005, electricity generation plants for which the Generalitat of Valencia is responsible require the following authorisations:

- n **Administrative Authorisation** regarding the plant's draft project.
- n **Approval of the final design**, referring to the specific project allowing the owner to build or install the plant.
- n **Authorisation to operate**: permitting the operation of plants and their commercial exploitation once the project is executed.

This authorisation, provided for in Decree 88/2005, does not apply to plants with voltage under 1 kV.

Also, according to RD 661/2007, all special scheme generation plants must obtain:

- n Recognition of status as a special scheme plant.
- n Filing at the Registry of Special Scheme Generation Plants.

According to Decree 177/2005, photovoltaic plants with an output of under 100 kW which have a low-voltage connection to the distribution grid do not require authorisation for installation but before commencing operation must obtain recognition of special scheme generation plant status and be filed at the Registry of Special Scheme Generation Plants.

According to the 26 July 2001 Decision of the Government of Valencia establishing the Wind Plan of the Community of Valencia, the following authorisations are required to establish wind farms in this Community:

## TOWN PLANNING

The following planning authorisations are required for the construction of electricity generation plants using renewable energy sources and associated facilities:

- n **Building permit.**
- n **Community Interest Statement** in cases so required where the plant is located on non-developable land.

Regarding urban planning, wind farms built in the Community of Valencia as part of the Community of Valencia's Wind Plan require the approval of a **Special Wind Area Plan**.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n **Building permit**, depending on the planning impact of the proposed plant.
- n **Community Interest Statement** where the proposed plant is located on non-developable land and requires the said classification.

## ENVIRONMENT

The following environmental authorisations are required for the construction of electricity generation plants powered by wind:

- n **Environmental Impact Statement.** Aside from the plants provided for under the national legislation, the works, installations or activities listed in the Annex of Law 2/1989 and in Annex I of Decree 162/1990 require an Environmental Impact Statement.

The following actions relating to the study are included in this Annex I:

- Hydroelectric, thermoelectric and nuclear generation plants.
  - Transmission and distribution of electricity where such transmission does not leave the Community and use of its distribution network does not affect any other Autonomous Community, provided that that one of the following circumstances applies:
    - o Rated voltage between phases is 132 kV or more.
    - o Power lines of over 20 kV completely or partially cross natural parks or sites or other areas protected by Decree of the Generalitat.
  - n **Environmental impact estimation** for the plants listed in Annex II of Decree 162/1990.
- The following actions relating to the study are included in this Annex:
- Transmission and distribution of electricity when such transmission does not leave the Community of Valencia and use of its distribution does not affect any other Autonomous Community, provided that

- n Approval of the **Community of Valencia Wind Plan.**
- n **Approval of the Area Energy Plan.**
- n **Administrative authorisation for the plant.**
- n **Project approval.**
- n **Commissioning Certificate.**

Wind plants with an output of 3 MW or less for the developer's own consumption are exempt from the provisions of the Wind Plan of the Community of Valencia.

For electricity plants located in the Community of Valencia whose use does not affect any other Community (provided it is generated by hydraulic, cogeneration and other plants powered by renewable energy sources), the Order of 11 July 1995 requires the following authorisations:

- n **Recognition of the plant's status as a special scheme plant.**
- n **Filing at the Registry of Special Scheme Electricity Generation Plants.**

We should note that the rules applying to **thermal energy generation plants** (heating and/or cooling), when the energy produced is put to industrial use or when it is used in buildings, do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

one of the following circumstances applies:

- o Where rated voltage between phases is greater than 20 kV and less than 132 kV.
- o The projects listed in Article 63 of the Forestry Act of the Community of Valencia, Law 3/1993.
- Solar photovoltaic energy plants with an output of over 250 kW and up to 3 500 kW where the total area around the perimeter of the panel area does not exceed 5 ha., provided that the height of the panels does not exceed 6 m.

- n **Integrated Environmental Authorisation** for plants listed in Annex I of Law 2/2006 and for plants listed in Annex II of that same Law where there could be considerable impact on the environmental.

The following actions relating to the study are included in Annex I:

- Combustion plants with thermal combustion capacity over 50 MW.
- Ordinary or special scheme electricity generation plants that burn fossil, waste or biomass fuels.
- Co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by an undertaking, whether or not that is its principal activity.

The following actions relating to the study are included in Annex II:

- Combustion plants with thermal combustion output over 20 MW for electricity generation using fossil fuels, waste or biomass.

- n **Environmental permit.** The activities in the schedule

approved by Decree 54/1990 require this environmental permit until the implementing regulation of Law 2/2006 is enacted.

n **Environmental notification** is required for all other activities not subject to the Integrated Environmental Authorisation or the Environmental Permit.

n **Authorisation to operate and opening permit.**

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Decree 88/2005, the following authorities are competent to grant administrative authorisations for the construction, enlargement, modification, transfer and closure of electricity plants and to specifically issue public utility declarations and approve final designs:

- n The **Directorate-General of Energy** of the Regional Ministry of Infrastructure and Transport in the case of energy generation plants with an output of 5 MVA or greater per generation group or unit, irrespective of voltage, with all necessary supplementary and auxiliary installations, irrespective of the total output of the electricity plant; transmission installations, inter-provincial distribution power lines or those with a rated voltage of 132 kV or more; substations with transformation capacity of 75 MVA or more; and direct connection lines (generation and private) for use by a single consumer with a rated voltage of 132 kV or more.

### TOWN PLANNING

The competent authorities for the granting of planning authorisations needed to build these plants are:

- n The **Local Corporation** where the plant is to be sited; this applies to electricity generation plants, thermal energy generation plants and associated facilities.
- n The **Regional Ministry responsible for town and country planning** must issue a Community Interest Statement (Article 30 LSNU) if necessary because the plant is located on non-developable land.

This same Regional Ministry is responsible for final approval of the Special Development Plan which must be appended in the processing of wind farms.

### ENVIRONMENT

The authority competent to grant the planning authorisations needed to build these plants is:

- n The environmental body responsible for performing the environmental impact assessment is the highest ranking body of the Regional Ministry responsible for the environment.
- n The Environmental Agency is responsible for formulating the requisite Environmental impact estimation.
- n The Directorate-General with competence for integrated pollution prevention and control at the Regional Ministry of the Environment has the power to issue the Integrated Environmental Authorisation for plants included in Annex I of Law 2/2006 and to issue the Authorisation to commence activity.
- n The Directorate-General of the Regional Ministry of the Environment in whose territorial limits the plant or activity is to be located is competent to issue the

- n The **territorial bodies of the Regional Ministry of Infrastructure and Transport responsible for energy matters** in the case of all other installations. Also in the case of authorisation to operate all electricity plants located in the province in question.

According to the 26 July 2001 Decision, the following administrations are competent to grant the authorisations required for electricity generation plants using wind energy:

- n The Government of Valencia is competent to pass the Wind Plan of the Community of Valencia.
- n The Regional Minister of Industry and Trade to:
  - Approve the Energy Plan.
  - Grant the Administrative Authorisation.
  - Approve the Final Design.
- n The Regional Minister of Public Works, Town Planning and Transport to approve the Special Development Plan.
- n The Territorial Energy Service to grant the commissioning certificate.

Having regard to the authorisations required under the Order of 11 July 1995, we should note that the Directorate-General of Energy is the body competent to grant recognition of special scheme status for plants and to file them at the Registry of Special Scheme Electricity Generation Plants.

Integrated Environmental Authorisation for plants included in Annex II of Law 2/2006 and to issue the Authorisation to commence activity.

- n The Local Corporation where the plant is to be located is competent to grant the Environmental Permit or Environmental Community, where required, and also to issue the opening permit.

## INFORMATION MEASURES

**INDUSTRY**

**TOWN PLANNING**

**ENVIRONMENT**

Decree 88/2005 provides the following public information measures concerning authorisation of Group I electricity generation, transmission and distribution plants.

The Administrative Authorisation application for projects must be published in the Official Gazette of the Generalitat of Valencia or in the Official Provincial Gazette in accordance with the territorial scope of the body responsible for issuing a decision, for a period of 20 days to allow interested parties to make submissions and access information on the projected plant.

The project must also be publicised at the Local Corporation where the property or rights affected by the plant are located.

The decision granting Administrative Authorisation must likewise be published in the Official Gazette of the Generalitat of Valencia or in the Official Gazette of the Province where the application was published.

Electricity generation plants, transmission and distribution plants and transformer stations and substations with a voltage of 36 kV or more on any of its sides, direct lines, private high-voltage lines for the private use of an individual consumer and generation connection lines with a voltage of 36 kV or more are all included in Group I.

However, administrative authorisation applications and project approval for Group II plants shall only require publicity where a Public Utility Declaration is required or they are subject to environmental impact assessment.

Distribution plants, high-voltage lines under 36 kV and transformer centres and substations with a voltage on any of its sides always below 36 kV, direct high-voltage lines, private high-voltage lines for the use of a single consumer and generation connection lines with voltage under 36 kV are all included in Group II.

The Decision of 26 July 2001 regulating the

According to Article 37 of the Non-Developable Land Act, Law 10/2004, application for a Community Interest Statement, where one is required to locate the plant on non-developable land, must be published for 20 days in the Official Gazette of the Generalitat of Valencia and on bulletin boards of the Local Corporations affected.

Also, once the Community Interest Statement is granted, the link between the land and the use authorised must be filed at the Land Registry together with any other conditions established.

According to Law 2/1989 and Decree 162/1990, applications for an **Environmental Impact Assessment** shall be publicised along with the substantive project.

Where applicable regulations do not require public information on this project, the environmental body shall directly publicise the Environmental Impact Study through an announcement in the Official Gazette of the Generalitat of Valencia for 30 days.

The Environmental Impact Statement must also be published in the Official Gazette of the Generalitat of Valencia.

These regulatory provisions also provide for the publication of applications for **Environmental impact estimations** only when required by the substantive project. In this case such Estimates shall be publicised together with the latter.

An extract of the Environmental impact estimations issued must also be published in the Official Gazette of the Generalitat of Valencia.

Law 2/2006 provides for publication of the **Integrated Environmental Authorisation** for at least 30 days in the Official Gazette of the Generalitat of Valencia.

Where the plant subject to the Integrated Environmental Authorisation also requires an Environmental Impact Assessment, the two shall be published jointly. The decision granting the Integrated Environmental Authorisation shall be published in the Official Gazette of the Generalitat of Valencia.

Law 2/2006 provides for publication of the **Environmental Permit** for at least 20 days in the Official Gazette of the province in question.

Applications must also be expressly notified to neighbours immediately adjacent to the site where the activity is to be located.

authorisations needed for the construction of wind farms provides that the public tender for the implementation and execution of the Wind Plan of the Community of Valencia must be published in the Official Gazette of the Generalitat of Valencia and in a large-circulation non-official newspaper in the Community of Valencia.

According to Article 7 of the aforementioned Decision, Special Development Plan projects for the installation of wind farms, energy plans and environmental impact studies submitted and considered most appropriate for each of the areas envisaged in the Wind Plan of the Community of Valencia, must also be publicised.





The administrative authorisation procedure for plants, draft projects and projects regulated under Decree 88/2005, provides different mechanisms for coordination between the various Public Administrations affected. In particular, the Decree provides the following coordination measures:

- n For Group I and Group II plants, the application for administrative authorisation, together with the Environmental Impact Study, where required, are publicised jointly.
- n Also, in the case of plants from both groups, offprints of the draft project must be forwarded to the different administrations, bodies and, as the case may be, public or general interest service undertakings responsible for property or rights affected by the electricity plant.
- n In any case, the authorisation application must be notified to the Local Corporations affected.
- n Authorisation for transmission plants requires a report from the Directorate-General for Energy Policy and Mines at the Ministry of Industry, Tourism and Trade. To that end, prior to the public information stage, the Directorate-General of Energy must forward the application and appended documentation to the said Directorate-General.
- n Having regard to approval of the final design of Group I and Group II plants, the same Decree requires the territorial body responsible for energy issues to forward project offprints to the different administrations, bodies or public or general interest service undertakings affected.

The **Decision of 26 July 2001** regulating the establishment of wind farms requires that once provisional approval of the different special plans is granted, it be forwarded to the Regional Ministry of the

According to the applicable planning regulations, specific coordination measures are envisaged between the different administrations affected before the necessary planning authorisations are granted.

In particular, the following coordination measures apply to the building permit:

- n According to the Town Planning Law of Valencia, requests for reports must go out to other departments of the Local Corporation itself and to other public administrations, where necessary, for the processing of building permits.
- n Also, where required, a Community Interest Statement must be issued before the building permit can be granted.
- n Also, according to Article 488 of the **ROGTU**, neither municipal and building permits nor the requisite environmental intervention instrument legitimising use of non-developable land which, in the cases and by means of the techniques regulated in the Non-Developable Land Act is required a preliminary report or authorisation, may be issued until such report or authorisation is placed on record and evidence of compliance with the conditions imposed therein is provided.
- n Furthermore, the Town Planning Act of Valencia provides that where reports must be requested from different departments of the Local Corporation and from other public administrations as part of the permit granting process, these are to be requested simultaneously in a single act.

Where a Community Interest Statement is required, the Non-Developable Land Act requires that a report be requested from the different administrations affected, including the Local Corporations. It also provides that Community interest statements may not contain assertions

According to **Decree 162/1990**, processing of the **Environmental Impact Study**, where necessary for issuance of the Environmental Impact Statement or the Environmental impact estimation, is initiated by the body competent to approve the project under study.

Moreover, this regulation provides that the Study is to be publicised together with the Project information.

Also, before the Study is drawn up, if the developer requests information on its scope, the environmental body can consult with any administrations and institutions that may be affected by the project, inviting any submissions, indications or proposals that they care to make.

The requisite Environmental Impact Statement, or Estimation as the case may be, must be issued before the substantive project can be approved.

Law 2/2006 provides the following coordination mechanisms for processing of the Integrated Environmental Authorisation, the Environmental Permit and the Environmental Notification:

- n First of all, where the plants or activities subject to integrated environmental authorisation are located on non-developable land and a community interest statement is required, the issuance of the latter by the competent regional body is a prerequisite for granting of the former.

This statement shall be independent and issued prior to the decision granting the integrated environmental authorisation even though the publicity process and other formalities concurrently under way are carried out jointly in the procedure for granting of the integrated environmental authorisation.

- n Where plants subject to the Integrated Environmental Authorisation require the industrial authorisations laid down in the Electricity Sector Act, Law 54/1997, the Integrated Environmental Authorisation must be granted

Environment for formulation of the requisite environmental impact statement and to the Regional Ministry of Public Works, Town Planning and Transport for final approval.

that contradict the environmental impact assessment.

Regarding wind farms, the **Decision of 26 July 2001** (Article 7) provides that approval of the Special Plan must precede approval of the Energy Plan.

before the said industrial authorisations.

n Law 2/2006 provides that where projects included in Annexes I and II are subject to environmental impact assessment by the environmental body of the Generalitat, they will be subject to the same correction, public information, reporting and hearing procedures as required for the Integrated Environmental Authorisation.

n Law 2/2006 provides for remittal of the Integrated Environmental Authorisation application to other bodies of the Generalitat or to other public administrations required to take part in the procedure inviting their opinion on the adequacy of the documentation submitted.

Also, reports are to be requested from the bodies required to issue an opinion on matters within their purview, including the Local Corporation where the plant is to be located and the competent water authority.

n Law 2/2006 provides that where an **Environmental Permit** is required for building, it must be accompanied by the corresponding project, which will be processed together with the environmental permit to ensure that these are implemented and executed in accordance with the applicable legislation.

n Where the activity subject to the environmental permit also requires an environmental impact assessment, once the public information period has concluded the environmental impact study and a copy of the project, together with any submissions received, is to be sent to the environmental body competent to grant the latter.

n Where the project requires a community interest statement, a copy of the project is to be sent together with any submissions received during the hearing stage to the regional body responsible for issuing the said statement.

- n Once the public information stage has concluded, the Local Corporation will request all reports that are mandatory in accordance with the sectoral legislation applicable to the activity for which the permit applies.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

According to the applicable regulations, we should note that five different procedures are envisaged for authorisation of electricity generation plants using renewable sources and of connecting installations:

- n The procedure applicable to **electricity generation, transmission and distribution plants, under the authority of the Generalitat and listed in Group I** of Decree 88/2005, consists of the following steps:

- Step I (Administrative Authorisation). This step begins when the interested party submits an application to the territorial body responsible for energy matters in the province where the plant is to be located.

After analysing the application, the administration publicises it together with the Environmental Impact Study where the plant so requires. Publicity is through an announcement in the Official Gazette of the Generalitat of Valencia or the Official Gazette of the province in question and information circulated among the Local Corporations affected.

Any submissions made are forwarded to the applicant, who has 10 days to submit counter-submissions.

During this period, information is forwarded to the different administrations, bodies or, as the case may be, public or general interest service

### TOWN PLANNING

The procedure for obtaining a **building permit** is regulated in a general way in Decree 67/2006, and consists of the following steps:

- n The process is initiated when the interested party submits an application to the Local Corporation where the plant is located.
- n The municipal technical and legal services then have 20 working days to issue a report on compliance of the application with planning laws and any other applicable rules.
- n Where mandatory reports or authorisations from other public administrations are required but are not appended, a request in that connection is sent to them and they have two months to respond. Should they fail to respond, the process will still go forward.
- n Once the foregoing formalities are concluded, a decision is made by the Municipal Corporation.

However, one must look to the local By-laws to determine the specific procedure applicable in each case.

We should note that the procedure for the granting of the **Community Interest Statement** is regulated in the Non-Developable Land Act, Law 10/2004 and in Decree 67/2006 and consists of the following steps:

- n The process is initiated at the request of the interested party, who files an application with the Regional Ministry responsible for town and country

### ENVIRONMENT

We should first note that Decree 162/1990 provides two different procedures for processing of the Environmental Impact Study depending on whether the plant in question requires an Environmental Impact Statement or an Environmental impact estimation.

The procedure for issuance of the **Environmental Impact Statement** consists of the following steps:

- n Preliminary step (consultation): During this step, the developers may request that the environmental body inform them as to the most important aspects to be borne in mind in performing the Environmental Impact Study.

This step is initiated when the interested party submits an application together with a summary memorandum of the project. The Environmental Agency then has 10 days in which to consult the individuals, administrations and institutions affected, inviting any submissions, indications or proposals, to be received within 30 days.

Once responses are received, the Environmental Agency has 20 days to reveal the content of the consultations and the most significant points that need to be considered.

- n Step I (Public Information): The developers submit the Environmental Impact Study to the decision-making body responsible for authorising the Project, which will publicise the latter together with the project and request all other reports required under substantive rules.

undertakings with property or rights affected so that they may express their assent or objection to the plant.

If there are any observations, these are forwarded to the applicant, who has 10 days to assent or state his objections.

If he makes any observations of his own, these are once again forwarded to the Administration, body or public or general interest service undertakings that objected, which have 10 days to express their agreement or objections.

If disagreement persists, it will be resolved by the Council of the Generalitat.

Upon conclusion of these formalities, a decision is reached.

- Step II (Project approval). If not already processed together with the administrative authorisation, once the latter is obtained the developer must submit an application for project approval to the administration.

The territorial body responsible for energy matters will forward the project offprints submitted to the different administrations, bodies or public or general interest service undertakings affected, which have 20 days to formulate appropriate technical specifications.

The applicant is informed of the specifications and has 10 days to either accept them or state his objections.

If the applicant raises objections, these are forwarded to the administration, bodies or public or general interest service undertakings that issued the specifications in the first place, which have 10 days to assent or state their own

planning.

- n This Regional Ministry publicises the application for a period of 20 days and requests reports from the different national and regional departments and bodies that could be affected and from the Local Corporations.

If no report is forthcoming within a month, the process will go forward.

- n A hearing will be arranged for the owners of property and rights affected by the action and owners of adjacent lots inviting any submissions, complaints or suggestions.
- n Once these actions are concluded, a decision will be made by the Regional Ministry.

Notwithstanding the foregoing, we should note that according to Article 24 of the Non-Developable Land Act, the following plants located on non-developable land shall not require a Community Interest Statement:

- n Plants which for which a special plan has been approved specifically organising such uses in conjunction with rational use of natural resources on non-developable land.
- n Solar photovoltaic energy generation plants whose output is 10 kW or less and which occupy the minimum eligible lot according to the planning, which shall not be less than one hectare.
- n Solar photovoltaic energy generation plants located on the roofs of buildings legally built on non-developable land, irrespective of their surface area.
- n Thermal energy generation plants for the production or generation of hot water for private use.
- n Wind energy generation plants for private use whose output is 15 kW or less.

- n Step II (Remittal of the Dossier): Once the previous step is concluded, the decision-making body forwards the dossier to the environmental body for it to formulate the environmental impact statement.

Should the substantive project not require public information, the environmental body shall publicise the Study through an announcement in the Official Gazette of the Generalitat of Valencia for 30 days.

- n Step III (Decision): Once the dossier has been analysed, the environmental body issues the Environmental Impact Statement and forwards it to the decision-making body.

Should the decision-making body disagree with the findings and specifications of the Statement, it will have 15 days to make this known to the Environmental Agency.

If the Environmental Agency accepts the objections, it will amend the Statement and, if not, it will forward the dossier to the Government of Valencia for a decision.

Where projects included in Annexes I and II of Law 2/2006 require an environmental impact assessment by the environmental body of the Generalitat, the procedure laid down in the regional legislation regarding environmental impact replaces the procedure established in the above-cited Law for obtaining an integrated environmental authorisation.

In this connection, the environmental impact study, together with the project subject to the integrated environmental authorisation, pass jointly through the correction, public information, reporting and hearing phases. The environmental impact statement is replaced by a mandatory and binding preliminary report issued by the Generalitat's environmental body.

The procedure for issuance of the Environmental impact estimation is faster since the study requires less information and the time limit for issuance of a decision is shorter.

objections.

If disagreement persists, it will be resolved by the Council of the Generalitat.

Once the above formalities are concluded, a decision is made regarding approval of the final design.

- Step III (Authorisation to operate): Once the plant is built, an application for authorisation to operate is submitted.

The administration may inspect the plant but must issue its decision within one month of the date of application.

- n The procedure applicable to **electricity generation, transmission and distribution plants, under the authority of the Generalitat and listed in Group II** of Decree 88/2005 consists of the following steps:

- Step I (Administrative Authorisation and Project Approval): These authorisations are obtained jointly.

The procedure followed to obtain these authorisations is the one described in Step I for Group I plants, although the project does not have to be publicised unless an a Public Utility Declaration is applied for or an Environmental Impact Assessment is required.

- Step II (Authorisation to operate): Once the project has been executed, an application for Authorisation to operate is submitted and must be granted by the administration within one month.

The Decision of 26 July 2001 regulates the procedure for **electricity generation plants using wind energy** and consists of the following steps:

Specifically, this procedure consists of the follows steps:

- n Step I (Application and Publicity): The Environmental Impact Study is submitted to the decision-making body competent to authorise or approve the project subject to the Study.

This step is only necessary where required by the processing of the substantive project.

- n Step II (Remittal of the Dossier and Decision): The decision-making body forwards the dossier, along with the Environmental Impact Study, to the Environmental Agency and the latter has 20 days to formulate the Environmental impact estimation.

Should the decision-making body disagree with the Environmental impact estimation, the procedure envisaged for the Environmental Impact Statement is followed and the disagreement is resolved by the Regional Minister of Public Administration.

As a special note, we should point out that the Non-Developable Land Act, Law 10/2004, provides that the following plants do not need an Environmental Impact Statement or Estimate:

- n Solar photovoltaic energy generation plants whose output is 10 kW or less and which occupy the minimum eligible lot according to the planning, which shall not be less than one hectare.
- n Solar photovoltaic energy plants located on the roofs of buildings legally built on non-developable land, irrespective of their surface area.

- Approval of the Community of Valencia Wind Plan.
- A public call for proposals by the Regional Minister of Industry and Trade for the implementation and execution of the Wind Plan of the Community of Valencia.
- Those interested may submit their applications along with the requisite:
  - o Special scheme projects
  - o Energy Plan projects
  - o Environmental Impact Studies
- The proposals that the Selection Committee considers the best are published and the rest are rejected.
- Once the public information procedure is concluded, the Regional Minister of Industry and Trade will provisionally approve the special plans, which are processed and forwarded to the Regional Ministry of the Environment for formulation of the Environmental Impact Statement and to the Regional Ministry responsible for land use planning for approval of the final Special Plan.
- Once the Environmental Impact Statement is issued, the Special Scheme receives final approval, which must be published.  
Final approval implies awarding of the action to the promoter of the initiative for the approved project.
- Once these formalities are concluded, the Energy Plan is approved and the plant is granted administrative authorisation.
- Lastly, the project must be approved by the

- n Solar photovoltaic energy generation plants with output of 10 kW up to 250 kW where the maximum total area around the perimeter of the panels is 3 750 m<sup>2</sup>, provided that the height of the panels does not exceed 6 m and they occupy the minimum eligible lot allowed by the planning legislation, which must be at least one hectare.
- n Thermal energy generation plants for the production or generation of hot water for private use.
- n Wind energy generation plants for private use whose output is 15 kW or less.

The procedure for obtaining an **Integrated Environmental Authorisation** is regulated in Decree 2/2006, and consists of the following steps:

- n A compatibility report must be requested from the Local Corporation affected before an application can be filed for this Authorisation.
- n The application is then submitted to the body competent to make the decision, which must be provided with the documentation required under Article 26 of the aforementioned Law 2/2006, particularly the Environmental Impact Study.
- n This application is sent to other bodies of the Generalitat or to other Administrations taking part in the procedure, which have 20 days to express an opinion on the adequacy of the documentation submitted.
- n Once that process is concluded, it is publicised through an announcement in the Official Gazette of the Generalitat of Valencia for three days.
- n Once the public information formality is completed, reports are requested from the bodies required to issue an opinion on matters within their purview and from the Local Corporations and water authority affected.

At this stage, an environmental impact report is

Regional Ministry of Industry and Trade. The Authorisation to operate is obtained once construction is finalised.

However, wind farms of less than 3 MW for private supply are excluded from the Plan and are approved in accordance with the general regulation of the Community of Valencia.

- n Royal Decree 842/2002 adopting the Low-voltage Electro-technical Regulation provides the authorisation procedure for **Plants with voltage under 1kV**.

This procedure does not require authorisation prior to construction. However, commissioning does require the installer to submit the documentation listed in Article 18 to the relevant body of the Autonomous Community.

- n **Photovoltaic energy plants connected to the low-voltage grid** are regulated under Decree 177/2005 and do not require authorisation for construction.

However, for purposes of commissioning, before the plant can be connected to the grid, a Low-Voltage Electricity Plant Certificate must be submitted to the Territorial Energy Service along with other documentation depending on the output of the plant.

This Service will process the copies of the Certificate and return four of them, two to the authorised installer and two to the owner, one for himself and the other to pass on to the electricity company to allow connection to the grid.

The territorial service will forward it to the Directorate-General so that the latter can grant recognition of the plant's Special Scheme status and file it at the Registry of Special Scheme

requested from the body responsible for issuance of the Environmental Impact Statement, and a request is likewise sent to the body responsible for land use planning for a Community Interest Statement where required.

- n The procedure concludes with a hearing of the interested party, after which a draft decision is issued followed by the final decision.

The procedure for the **Environmental Permit** is similar to the one described above and is also regulated under Law 2/2006 and features the following particularities:

- n Before the environmental permit can be granted, authorisations must be obtained from other bodies as required by the applicable sectoral rules, and also certification of planning compliance.
- n This application is submitted to the relevant Local Corporation as the body responsible for making the decision.
- n The decision is then publicised through an announcement in the Official Provincial Gazette for 20 days and notice is served to the most immediate neighbours.
- n Once the public information formality is concluded, where an environmental impact assessment is needed or a community interest statement required, the project is forwarded to the bodies responsible for issuing those documents.
- n Once the public information formality is concluded, reports are requested from the bodies required to issue an opinion on matters within their purview.

At this stage, an environmental report is requested from the competent body in each case.

- n Once the environmental report is issued, a hearing is arranged for the interested parties, inviting their

Generation Plants of the Community of Valencia.

- n As noted, the building of **thermal energy generation plants** does not require preliminary authorisation but only notification to the competent body of the Autonomous Community before it is put into service.

In particular, according to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, and RD 2060/2008 approving the Regulation of Pressurised Equipment, these installations only require a project to be submitted to the appropriate body of the Autonomous Community before installation in the cases described in Annex II. No prior notification is needed in other cases.

In order to commence operation, the documentation required under the aforementioned law must be submitted to the appropriate body of the Autonomous Community. No decision is needed to authorise installation.

submissions.

- n Lastly, the Local Corporation decides on the environmental permit.

The **Environmental Notification** is likewise regulated in Law 2/2006 and must be obtained before commencement of activity in the case of activities not subject to the Integrated Environmental Authorisation or the Environmental Permit.

It may be obtained by simply notifying commencement of activity at least one month before the planned date.

**Authorisation to operate and opening permit.** These are regulated under Law 2/2006 and must be obtained after the construction of the plants but before the commencement of activities subject to the integrated environmental authorisation or the environmental permit. It is an **authorisation for commissioning**.

In order to obtain these, assurance must be provided that the plant adheres to the approved project and that the requisite corrective measures stipulated in the Environmental Authorisation or Permit process have been implemented.

## TIME LIMIT FOR GRANTING

### INDUSTRY

According to **Decree 88/2005**, the time limit for the granting of the authorisations regulated therein is as follows:

- n Six months for the **Administrative Authorisation** pursuant to Article 6 of the Decree. If no decision is forthcoming within that time limit, the authorisation is considered denied.
- n Six months for **Approval of the Final Design** (Article 6). If no decision is forthcoming within that time limit, the authorisation is considered denied.
- n One month for granting of the **Authorisation to**

### TOWN PLANNING

According to the LUV, the maximum limit for granting of **permits** involving major new construction is two months, while permits for any type of works that the legislation or regulations require to be granted together with the requisite activity permit, shall be subject to the same specific procedure as the activity permit.

In all other cases, the limit is that laid down in the relevant Municipal By-laws, and therefore each case must be examined individually.

Administrative silence shall indicate approval, but under no circumstances may rights be acquired by administrative silence where they contravene laws, plans, projects,

### ENVIRONMENT

According to Decree 162/1990, the time limit for granting of the Environmental Impact Statement and Estimate is as follows:

- n Two months for issuance of the Environmental Impact Statement from the date the decision-making body receives the dossier if the latter is subject to public information. If it is not, the time limit is two months from the conclusion of the public information arranged by the environmental body.
- n Twenty days for issuance of the Environmental impact estimation from the date the Environmental Agency



**operate** (Article 6).

Having regard to the approval of wind farms, we should note that although the 26 June 2001 Decision of the Government of Valencia sets no time limit for approval of the Energy Plan, such approval must be issued once the Environmental Impact Statement is obtained and the Special Scheme approved.

programmes or by-laws or, in general, where terms are contrary, opposed or in disagreement with town planning provisions.

According to the Non-Developable Land Act, Law 10/2004, the time limit for approval of the **Community Interest Statement** is six months and is considered denied if no decision is forthcoming by that deadline.

According to the town planning regulations applicable in Valencia, the time limit for processing of the **Special Scheme** required for the establishment of wind farms is as follows:

- n Three months for preliminary approval as from the end of the publicity period. If no decision is forthcoming by that time, preliminary approval shall be considered denied.
- n Three months as from the submission of the application for final approval. Final approval of the plan is considered granted if no decision is forthcoming by that time.

receives the dossier from the decision-making body.

According to Law 2/2006, the time limit for issuance of a the environmental instruments regulated therein is as follows:

- n Ten months for the **Integrated Environmental Authorisation** for plants or activities listed in Annex I from the date of application. If no authorisation is issued by that time, the application shall be deemed denied.
- n Eight months for the **Integrated Environmental Authorisation** for plants or activities listed in Annex II from the date of application. If no authorisation is issued by that time, the application shall be deemed denied.
- n Six months for granting of the **Environmental Permit** from the date of entry of the application in the registry of the Local Corporation competent to issue that permit. Applications shall be considered approved if no express decision is forthcoming within that time limit.
- n Two months for granting of **authorisations to commence activity** and one month for **opening permits** from the date of application. Final approval of the plan by virtue of administrative silence is considered granted if no decision is forthcoming by that time.
- n One month for granting of the **Environmental Notification** from the date of notification. If no decision is forthcoming from the Local Corporation by that limit, the owner may commence activity.

## FEES

### INDUSTRY

In respect of industry, Article 189 of the 2005 Fee Act of the Community of Valencia provides for a fee for authorisation of operation, filing and checks of industrial steam generation plants and other pressurised equipment, electricity plants, lines, stations and substations, heating, cooling and hot water installations

### TOWN PLANNING

Regarding planning, we should note that no fee has been regulated at regional level for processing of the authorisations granted by the Autonomous Community, with the exception of Article 314 of the 2005 Fee Act of the Community of Valencia, approved by Legislative Decree 1/2005 of 25 February 2005 on the special common use or

### ENVIRONMENT

Regarding environmental matters, we should note that no fees have been established at regional level for the processing of the authorisations granted by the Autonomous Community.

Also, municipalities can regulate the charging of fees for

installed requiring a project.

This is a flat-rate fee and does not vary with the cost of the plant,.

private use of the Generalitat's public domain.

However, authorisation for the use of non-developable land through the Community Interest Statement entails the payment of a Use and Exploitation Charge to the Local Corporation where the plant is located.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

One must therefore look to the regulations contained in the by-laws of each municipality.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

According to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation of pressurised equipment and supplementary thermal instructions and RD 842/2002 approving the Regulation of Low-Voltage Electrical Installations both require that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is

### TOWN PLANNING

### ENVIRONMENT

required from the Administration.

# **AUTONOMOUS COMMUNITY OF EXTREMADURA**

## AUTONOMOUS COMMUNITY OF EXTREMADURA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of Extremadura the following regulatory provisions are in force, which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources:

- n **Decree 49/2004** of 20 April 2004 regulating the procedure for installation and operation of industrial establishments.
- n **Decision of 24 March 2004** of the Directorate-General of Industrial Planning, Energy and Mines dictating the technical instructions for commissioning of low-voltage electricity plants..
- n **Decree 192/2005** of 30 August 2005 regulating the procedure for authorisation of electricity generation plants powered by wind energy through wind farms in the Autonomous Community of Extremadura.
- n **Order of 29 January 2007** of the Regional Ministry of Economy and Labour laying down the supplementary rules for distribution grid connections and processing of certain special scheme electricity generation plants and groups of the latter.
- n **Order of 6 June 2007** calling for the submission of applications for authorisation of wind farms in the Autonomous Community of Extremadura.

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of Extremadura:

- n The Land and Land Use Planning Act of Extremadura, **Law 15/2001** of 14 December 2001.
- n Municipal by-laws which may have been enacted by Local Governments.

#### ENVIRONMENT

Besides the national regulations, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of Extremadura:

- n **Decree 45/1991** of 16 April 1991 laying down measures to protect the ecosystem in the Autonomous Community of Extremadura.
- n The Pollution (Prevention and Control) Act **Law 16/2002** of 1 July 2002.
- n **Decree 2414/1961** of 30 November 1961 adopting the regulation on unpleasant, unhealthy, harmful and dangerous activities.
- n **Decree 18/2009** of 6 February 2009 simplifying the administrative procedure for activities classified as having a reduced environmental impact.

- n **Order of 10 March 2008** of the Regional Ministry of Industry, Energy and the Environment regulating the procedure whereby small photovoltaic plants access the distribution grid as a means of promoting renewable energies.
- n **Decree 256/2008** of 19 December 2008 regulating the presentation of guarantees by electricity generation plants using solar photovoltaic technology.
- n **Order of 22 January 2009** amending the Order of 10 March 2008 regulating the presentation of guarantees by electricity generation plants using solar photovoltaic technology.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures.

Article 7(1)(28) of the Statute of Autonomy of **Extremadura** approved by Organic Law 1/1983 of 25 February 1983 confers exclusive competence on the Autonomous Community in respect of energy generation, distribution and transmission plants where the transmission remains within the Community and its exploitation does not affect another Autonomous Community. Article 8(9) confers competences for legislative and material implementation in matters of mining and energy regulation.

### TOWN PLANNING

Article 7(1)(2) of the Statute of Autonomy of **Extremadura**, approved by Organic Law 1/1983 of 25 February 1983 confers exclusive competences on the Autonomous Community of Extremadura in respect of town and country planning and housing.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 8(8) of the Statute of Autonomy of **Extremadura**, approved by Organic Law 1/1983 of 25 February 1983, confers competences for legislative and material implementation in matters of environmental protection.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

According to the Order of 29 January 2007 issued by the Regional Ministry of Economy and Labour, the building of **electricity generation plants using solar energy with output of over 100 kW and associated facilities** requires the following industrial authorisations:

- n Administrative Authorisation.
- n Project Approval.
- n Authorisation for Commissioning.

The building of electricity generation plants using solar energy with output of less than 100 kW requires the following industrial authorisations:

- n Administrative Authorisation.
- n Commissioning authorisation.

Generation plants also require the following authorisations:

- n Recognition of status as special scheme plants.
- n Filing at the Registry of Special Scheme Generation Plants.

All other generation plants require the authorisations and permits listed in RD 1955/2000.

In the case of **thermal energy generation plants** (heating and/or cooling), we should note that the rules applying to this kind of plant (when the energy produced is put to industrial use or when it is used in buildings) do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

### TOWN PLANNING

According to Law 15/2001, the following planning authorisations shall be required for construction of **electricity generation plants using renewable sources and of connecting installations**:

- n Building Permit.
- n Planning Classification when the plant is located on non-developable land.
- n Use and Activity Permit.

The construction of **thermal energy generation plants** (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n Use and Activity Permit when required for the proposed plant.
- n Planning Classification where the proposed plant is located on non-developable land and requires the said classification.

### ENVIRONMENT

The following environmental authorisations are required for the construction of **electricity generation plants using renewable energy sources and their connecting installations**:

- n Environmental Impact Statement: Decree 45/1991 requires electricity generation plants to obtain this authorisation.
- n Integrated Environmental Authorisation where required according to the Pollution (Integrated Prevention and Control) Act, National Law 16/2002.
- n Activity permit.

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

### TOWN PLANNING

### ENVIRONMENT

According to the Order of 29 January 2007 and Decree 192/2005 the following authorities are competent to grant the industrial authorisations required for the construction of electricity generation plants using renewable energy sources and their connection facilities.

- n The Governing Council for approval of Administrative Authorisation for wind farms.
- n The Directorate-General of Industrial Planning, Energy and Mines for granting of Administrative Authorisations, approval of the final design and granting of the Commissioning Certificate, including for wind farms.
- n Also, the Directorate-General is competent to grant recognition of special scheme status and to file at the Registry of Special Scheme Electricity Generation Plants.

The authority competent to grant building permits and use and activity permits is the Local Corporation of the municipality where the plant is to be located, in the case of both electricity generation plants and thermal energy generation plants and associated facilities.

The Administration competent to award the Planning Classification is:

- n The Regional Ministry responsible for town and country planning where the plant is located on protected non-developable land or on common non-developable land in municipalities with fewer than 20 000 inhabitants.
- n The relevant Local Corporation in all other cases.

The authority competent to grant the Environmental Impact Statement and the Integrated Environmental Authorisation is the appropriate environmental body of the Regional Government of Extremadura.

Granting of the activity permit is the responsibility of the Local Corporations.

## INFORMATION MEASURES

### INDUSTRY

Processing of the requisite industrial authorisations is generally governed by the provisions of RD 1955/2000, which requires that the application for administrative authorisation for electrical energy generation plants using renewable energy sources and connection installations be subject to publication in the Official Provincial Gazette or the Official Journal of the Autonomous Community during a minimum twenty-day period.

Regarding the authorisation procedure pertaining to wind farms regulated under Decree 192/2005, Administrative Authorisation of electricity generation plants using wind energy requires that the project be publicised for 30 days and that the Local Corporations affected be informed.

However, public information is not required in the case of low-voltage electricity generation plants and thermal

### TOWN PLANNING

According to Law 15/2001, the application for the Planning Classification must be published for 20 days.

### ENVIRONMENT

According to Legislative RD 1302/1986, the Environmental Impact Study, referred to by the Environmental Impact Statement must be published together with its corresponding project.

Granting of the Environmental Impact Statement must likewise be publicised.

Also, according to Article 16 of Law 16/2002, the Integrated Environmental Authorisation is to be publicised for thirty days. In addition, once a decision is made, it is to be notified to the authorities that reported on the application and to the interested parties.

According to Decree 2414/1961, the activity permit must be publicised for 10 days where the activity is considered unpleasant, unhealthy, harmful or dangerous.



energy generation plants.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

According to the Order of 29 January 2007, all other authorisations and permits must be obtained before authorisation for plant construction may be issued.

In that connection, Article 14 requires that generation plants with an output of up to 100 kW obtain a municipal building permit and, where applicable, a favourable environmental impact statement or report before Administrative Authorisation may be granted.

Article 15 requires that generation plants with an output over 100 kW obtain a municipal permit and, where applicable, a favourable environmental statement or report before the approval of the Final Design.

In addition, according to RD 1955/2000, to which the aforementioned Order refers, where an Environmental Impact Study is required, it is to be processed together with the Environmental Authorisation.

Furthermore, approval of the final design must be expressly notified to the Authorities that issued or were required to issue the report during the authorisation process.

According to Decree 192/2005 regulating the procedure for authorisation of wind farms, this is to be processed together with the Environmental Impact Study.

It also provides that application is to be notified to Local Corporations and associations of municipalities affected inviting their submissions.

### TOWN PLANNING

According to Law 15/2001, the procedure for granting of planning classification requires that it be integrated in the same process as the Environmental Impact Study where the latter is required.

The procedure is initiated by the developer, who submits an application to the Municipal Corporation, which in turn forwards the application to the Regional Ministry responsible for town and country planning (where the latter is competent to issue the classification requested).

In these cases (i.e. where the Autonomous Community has competence), the Regional Ministry notifies the Local Corporation of the planning classification decision.

Law 15/2001 expressly provides that granting of the building permit by the Local Corporation implicitly entails granting of the remaining municipal permits, including the permit for unpleasant, unhealthy, harmful and dangerous activities.

Where the Environmental Impact Study is required, these are to be processed jointly.

The Law also expressly provides that the application is to be notified to other affected administrations.

### ENVIRONMENT

In accordance with Legislative Royal Decree 1302/1986, during processing of the Environmental Impact Study, it must be forwarded to other environmental protection authorities to determine whether an environmental impact study is necessary.

Furthermore, the request for an Environmental Impact Study is submitted to the decision-making body competent to approve or authorise the project concerned, which then forwards the request to the environmental body. The latter body is likewise informed of the issuance of the Environmental Impact Statement.

The basic national legislation also provides for express notification to the public administrations affected by the action.

Law 16/2002 provides that an Integrated Environmental Authorisation shall not be granted without a prior Environmental Impact Statement. The procedure for granting of this Integrated Environmental Authorisation takes the place of the procedure for granting a permit for a classified activity except for the decision by the Local Corporation.

## PARTICULAR CASES IN PROCESSING

## INDUSTRY

The Autonomous Community of Extremadura has implemented specific procedures for authorising the construction of electricity generation plants using renewable energy which vary depending upon the technology employed and the output.

In particular, it has regulated the procedure for authorisation of the following plants:

- n For **electricity generation plants using solar energy** (photovoltaic and thermoelectric) whose procedure is regulated in the Order of 29 January 2007 and consists of the following steps:

- Once special scheme plant status is obtained, an application is submitted for Administrative Authorisation.

This application is publicised and, where required, the Environmental Impact Study is processed.

The Administrative Authorisation is granted once the public information formality is concluded.

- Then an application is submitted for approval of the Final Design. This is forwarded to the administrations affected, which have one month to make submissions.

Once that time limit has elapsed, the Directorate-General will approve the Final Design.

- Once the plant is built, a Commissioning Certificate is applied for and issued.
- Once the commissioning certificate is obtained an application is submitted for filing at the Registry of Special Scheme Electricity Generation Plants.
- Where the output of these plants is below 100 kW, the procedure simply entails submission of the Administrative Authorisation application together

## TOWN PLANNING

The applicable legislation makes no provision for a specific procedure to suit the nature of the plant it is proposed to build, the technology used or its capacity; the procedure for obtaining these authorisations is the general one laid down in the said regulations.

The procedure for obtaining a **building permit** is regulated in a general way in Law 15/2001, and consists of the following steps:

- n It is initiated when the interested party makes an application (accompanied by the documentation required under Articles 161 and 166 of Legislative Decree 1/2004).
- n Once the application is submitted, the Local Corporation passes it on to the other authorities affected for them to report on the aspects for which they are competent.
- n The necessary legal and technical reports are issued.
- n The Local Corporation delivers a decision.

However, for exact details of the procedure, it is necessary to examine the regulations laid down in the municipal by-laws.

The procedure to obtain the **Planning Classification** is also regulated in Law 15/2001 and consists of the following steps:

- n The process commences when the interested party submits an application to the Local Corporation together with the building permit application.
- n If an Environmental Impact Studies or Integrated Environmental Authorisation is required, it is forwarded to the appropriate environmental

## ENVIRONMENT

The applicable legislation makes no provision for a specific procedure to suit the nature of the plant it is proposed to build, the technology used or its capacity; the procedure for obtaining these authorisations is the general one laid down in the said regulations.

The procedure for obtaining an **Environmental Impact Statement** consists of the following steps:

- n Preliminary enquiries to determine whether the project ought to be the subject of an Environmental Impact Study, and if so the content of that study.
- n Once it has been determined that the project must be subject to an Environmental Impact Assessment and the content of the latter is defined, the developer must submit the requisite Environmental Impact Study.
- n This Study must be publicised and the requisite reports obtained.
- n Lastly, the Environmental Impact Statement is issued.

There is a simplified study for different projects, the difference lying in the content of the study that is conducted.

The procedure for granting of the **Integrated Environmental Authorisation** is regulated in Law 16/2002 and consists of the following steps:

- n An application is made to the body of the Autonomous Community responsible for planning.
- n The application is subject to public information.
- n Relevant administrations issue their reports (including the Local Corporations affected and the Water Authorities).
- n Preparation of a draft decision, which must explain the

- with the documentation listed in Article 14 of the aforementioned Order.
- After checking the documentation, the Administration grants the administrative authorisation, without any need to publicise the application.
  - Once the Administrative Authorisation is obtained, the developer may commence construction of the plant.
  - Once construction is complete, he must apply for Authorisation for commissioning.
- n The procedure for electricity generation plants using wind energy is regulated in Decree 192/2005 and consists of the following steps:
- The developer has six months which to submit an application for administrative authorisation to the Directorate-General of Industrial Planning, Energy and Mines as from the date of the call for applications by the Regional Government of Extremadura.
- This application is publicised together with the Environmental Impact Study.
- Affected administrations (Local Corporations, etc.) are informed and invited to make submissions.
- Upon conclusion of these actions, the Governing Council will decide on the granting of Administrative Authorisation.
- Once the Administrative Authorisation is obtained, plant construction may begin.
  - Once the plant is built, an application is submitted for the Commissioning Certificate.
- n For low-voltage electricity plants (not producing electricity from solar energy), the procedure is

administration for processing.

- n It is subject to public information for 20 days.

Once these formalities are concluded, the full dossier is forwarded to the Regional Ministry competent to make the final decision.

If the Local Corporation is competent to issue approval, it does not have to be sent to the Regional Ministry responsible for town and country planning and is processed as part of the procedure for granting of the building permit.

Finally, processing of the **use and activities permit** is regulated in Law 15/2001 and, in essence, follows the same procedure as for granting of the building permit.

issues raised by the reports received.

- n The developer shall be given a hearing where he can make any submissions he wishes.
- n In the event of disagreement the submissions are passed on to the bodies that issued the reports for comment.
- n Finally, the Administration issues a decision granting or refusing the Integrated Environmental Authorisation.

The procedure for obtaining an **Activity Permit** is regulated in Decree 2414/1961 of 30 November 1961 where the activity is considered unpleasant, unhealthy, harmful or dangerous, and consists of the following steps:

- n The developer submits an application to the Local Corporation.
- n Upon examining the application the Local Corporation decides either to reject it or process it.
- n If it decides to process it, it is publicised and reports are collected from the Local Head of Health-care and from the appropriate municipal experts depending on the nature of the application.
- n Once the file is complete it is forwarded to the Provincial Technical Services Commission in order to classify the activity and verify the reliability and effectiveness of the corrective systems proposed.
- n Should the Commission reject these systems, it will arrange a meeting with the interested party and adopt the appropriate final agreement.

Once the decision is made, it will send the dossier back to the Local Corporation, which will grant the license in accordance with the decision issued by the Commission.

A simple procedure regulated by Decree 18/2009 of 6 February 2009 is available where the impact of an unpleasant, unhealthy, harmful or dangerous activity on the

regulated in the Decision of 24 March 2004 and does not require authorisation for construction but does need authorisation for commissioning.

To this end the developer submits the documentation required by the competent body, which must rule on the application within six months.

- n All other electricity generation plants are governed by the provisions contained in the national legislation, which is subsidiarily applicable.
- n The procedure for thermal energy generation plants (heating or cooling) is regulated in Decree 49/2004.

Two different procedures are envisaged depending on whether the plant requires an environmental impact assessment (Group I) or not (Group II).

According to the Annex of this Decree, pressurised equipment and heating, cooling and hot water installations are included in Group II.

According to prescribed procedure, these installations do not require authorisation prior to construction. However, before commencing operation they must submit the documentation required in this Decree to the Directorate-General of Industrial Planning, Energy and Mines.

Once the requisite documentation is submitted, the plant may commence operation.

environment is small.

The difference is that the activity classification and report is performed by the municipal services rather than the Classified Activity Commission of Extremadura.

According to the Annex of this Decree, this procedure applies to cogeneration plants, boilers, furnaces, steam generators or any other combustion equipment used by industry, provided that thermal output of the combustion does not exceed 2 MW.

## TIME LIMIT FOR GRANTING

### INDUSTRY

RD 1955/2000, which applies to processing of the industrial authorisations required by the Order of 29 January 2007, establishes the following time limits for granting of the authorisations necessary for the construction and commissioning of electricity generation

### TOWN PLANNING

According to Law 15/2001, the time limit for granting of planning classification is three months. If no decision is forthcoming in that time, the application is denied.

This regulatory provision provides that the time limit for granting of the building permit is that laid down in

### ENVIRONMENT

According to Royal Decree 1131/1988, the time limit for the administrative body responsible for project authorisation to forward the Environmental Impact Study to the authority responsible for environmental issues is three days, starting on the day the latter forwards the dossier to it following the

plants and their connection installations:

- n Three months to obtain recognition of the installation's status as a special scheme plant. No decision means that the application has been denied.
- n Three months to obtain Administrative Authorisation. No decision means that the application has been denied.
- n Three months for Project approval. No decision means that the application has been denied.
- n One month for granting of the project commissioning certificate.
- n One month for preliminary filing at the Registry of Special Scheme Generation Plants and one more month for the final registration.

According to Decree 192/2005, the time limit for granting of Administrative Authorisation for wind farms is six months from expiry of the time limit for submission of applications.. The application is denied if no express decision is forthcoming.

We should note that the rules applying to **thermal energy generation plants** (heating or cooling), when the energy produced is put to industrial use or when it is used in buildings, do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

municipal by-laws, which in no case may exceed the maximum limit of two months.

This limit is extended for three months where planning classification is required.

Moreover, this limit may be extended by Decree of the Regional Government of Extremadura by up to three times its duration where an environmental impact study is required.

If the time limit expires, the permit shall be assumed to be granted.

The time limit for granting of the Use and Activity Permit is that laid down in municipal by-laws, which in no case may exceed two months.

public information process.

The time limit for granting of the Integrated Environmental Authorisation is 10 months from the date of application. If no decision is forthcoming within that time, the application shall be considered denied by virtue of administrative silence.

The time limit for granting of the classified activity permit is four months from the date of application. If no decision is forthcoming within that time, a complaint about the delay may be lodged simultaneously with the Local Corporation and the Provincial Technical Services Commission, and the permit may be assumed to be granted by virtue of administrative silence upon the elapse of two months from the date of the complaint.

## FEES

### INDUSTRY

Fees required for processing of the aforementioned permits and industrial authorisations are regulated in the

### TOWN PLANNING

We should note that for planning purposes there is no regional regulation for the charging of any fee for

### ENVIRONMENT

Regarding environmental issues, the 2 February 2010 order of the Regional Ministry of Public Administration and Finance

Order of the Regional Ministry of Public Administration and Finance of 2 February 2010.

For the purposes of this study, the Order provides the following fees for processing of the following authorisations:

- n For processing of the connection, authorisation and registration of industrial activities and the registration of industrial establishments.

The amount of the fee varies according to the investment made.

- n For the provision of low-voltage electricity services.

In these cases, the amount of the fee varies according to the output or investment, depending on the service.

- n For authorisation and commissioning of high and medium voltage plants (transformer centres, substations and lines).

In these cases, the amount of the fee varies according to the output or investment, depending on the service.

- n For authorisation of containers, pressurised equipment and cooling installations and gas facilities.

For steam generators, the amount varies according to the category of the equipment.

- n For authorisation of heating, cooling and hot water installations.

A flat-rate amount is established depending on the type of equipment installed.

The taxable event for these fees is the work entailed in assessing all types of property and rights by the Regional Ministry of Economy, Industry and Trade.

processing authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

envisages a fee for the issuance of environmental impact studies and reports.

This fee has a fixed portion and a variable part based on the budget established for the material execution of the project.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

According to RD 1027/2007 approving the Regulation of Thermal installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation of pressurised equipment and supplementary thermal instructions and RD 842/2002 approving the Regulation of Low-Voltage Electrical Installations both require that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is required from the Administration.

### TOWN PLANNING

### ENVIRONMENT

## **AUTONOMOUS COMMUNITY OF GALICIA**



## AUTONOMOUS COMMUNITY OF GALICIA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, in the Autonomous Community of Galicia the following regulatory provisions are in force, which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources:

- n **Decree 36/2001** of 25 January. ELECTRICITY. Identifies the bodies competent to take decisions regarding the authorisation of electricity plants under the authority of the Autonomous Community of Galicia.
- n **Decree 275/2001** of 4 October. ELECTRICITY PLANTS. Lays down certain design and maintenance specifications to which distribution plants are subject.
- n **Order of 23 July 2003**. Regulating the application in the Autonomous Community of Galicia of the Low-Voltage Electro-Technical Regulation approved by Royal Decree 842/2002 of 2 August 2002.
- n **Decree 513/2005** of 22 September 2005 amending Decree 302/2001 of 25 October 2001 regulating the use of wind energy in the Autonomous Community of Galicia.
- n **Decree 242/2007** of 13 December 2007 regulating the use of wind energy in Galicia.
- n **Decree 149/2008** of 26 June 2008 regulating the procedure for the authorisation of electricity

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of Galicia:

- n The Land Use Planning Act of Galicia, **Law 10/1995** of 23 November 1995.
- n **Decree 80/2000** of 23 March 2000 regulating sectoral plans and projects with supra-municipal impact.
- n **Law 9/2002** of 30 December 2002 on Town Planning and Protection of the Rural Environment in Galicia.
- n **Law 15/2004** of 29 December 2004 amending Law 9/2002 of 30 December 2002 on Town Planning and Protection of the Rural Environment in Galicia.
- n Municipal by-laws which may have been enacted by Local Governments.

#### ENVIRONMENT

Besides the national regulations, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of Galicia:

- n The Atmospheric Environment (Protection) Act of Galicia, **Law 8/2002** of 18 December 2002.
- n **Decree 442/1990** of 13 September 1990 regulating Environmental Impact Assessment in Galicia.
- n **Decree 327/1991** of 4 October 1991 requiring an Environmental Effects Statement for public or private projects for execution of works, installations or activities envisaged in the different the sectoral legislations.
- n The Noise Pollution (Protection) Act of Galicia, **Law 7/2007** of 11 August 2007.
- n The Environmental Protection Act of Galicia, **Law 1/1995** of 2 January 1995.
- n **Decree 133/2008** of 12 June 2008 regulating the Environmental Incidence Assessment in Galicia.

generation plants powered by energy recovered from primary forest biomass in the Autonomous Community of Galicia.

- n **Law 8/2009** of 22 December 2009 regulating the use of wind energy in Galicia and creating the wind fee and the Environmental Compensation Fund.
- n **Decree 223/1998** of 24 July 1998 creating the One-stop Processing Office for Industry and regulating the Commissioning of Industrial Establishments.
- n **Order of 24 February 2010** regulating the application of the Regulation of Thermal Installations in Buildings in the Autonomous Community of Galicia.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 27(13) of the Statute of Autonomy of **Galicia**, approved by Organic Law 1/1981 of 6 April 1981 confers exclusive competence on the Autonomous Community of Galicia in respect of energy generation, distribution and transmission plants where the transmission remains within the Community and its exploitation does not affect another Autonomous Community. Article 32(8) confers competences for legislative and material implementation in matters of mining and energy regulation.

Article 28(3) of Organic Law 1/1981 confers competences on the Autonomous Community of Galicia in respect of legislative and material implementation of National law in the terms established therein regarding the Energy System.

### TOWN PLANNING

Article 27(3) of the Statute of Autonomy of **Galicia**, approved by Organic Law 1/1981 of 6 April 1981, confers exclusive competences on the Autonomous Community of Galicia in respect of land use and coastal planning, town planning and housing.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 27(30) of the Statute of Autonomy of **Galicia**, approved by Organic Law 1/1981 of 6 April 1981, confers competences on the Autonomous Community of Galicia in respect of additional regulations concerning environmental and landscape protection.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

In accordance with the Additional Provision of Decree 36/2001 of 25 January 2001, administrative authorisations, public utility declarations and approval of final designs of electricity plants covered in said RD 36/2001 and which were initiated after the entry into force of RD 1955/2000 of 1 December 2000, shall be processed in accordance with the provisions of Title VII of the said Royal Decree ("*Authorisation procedures for generation, transmission and distribution plants*"), until the Regional Government of Galicia enacts implementing provisions in that connection in the Autonomous Community of Galicia.

Therefore, in general terms, the establishment of such plants in the Autonomous Community of Galicia requires the following authorisations:

- n **Administrative Authorisation** referring to the basic project for the plant.
- n **Approval of the final design**, referring to the specific project allowing the owner to build the plant.
- n **Commissioning certificate** permitting the operation of plants and their commercial exploitation once the project is executed.

Also, in accordance with RD 661/2007, where these plants have special scheme status, the following is required in addition to the aforementioned authorisations:

- n Status as special scheme plant.

### TOWN PLANNING

For the construction of energy generation plants using renewable energy sources and associated facilities the following planning authorisations will be required:

- n Planning permit (Article 194 of Law 9/2002).
- n Sectoral Plan for the implementation of wind farms.

Following the amendment of Law 9/2002 by approval of Law 2/2010 of 25 March 2010 regarding urgent amendment of Law 9/2002 on Town Planning and Protection of the Rural Environment in Galicia, the establishment of energy generation plants on rustic land (ordinary rustic land and specially protected agricultural and forest rustic land) no longer requires regional authorisation, and the requisite municipal permit is now sufficient (Article 36).

### ENVIRONMENT

Regarding the environment, the establishment of electricity generation plants using renewable energy sources and associated facilities requires the following authorisations:

- n **Environmental Impact Statement.** Plants listed in Annex II of Decree 442/1999 require this authorisation.

Annex I includes power stations with an output of 300 MW and over and other combustion plants with thermal output of at least 300 MW.

It also includes any actions which, by Decree of the Council of the Regional Government of Galicia and subsequent to the approval of Decree 442/1999, are required to have an environmental impact assessment.

- n **Environmental Effects Statement.** This is required for all public or private projects for execution of works, plants or any other activity covered in the different the sectoral legislations, which require an environmental study and which are not listed in Annex I of Decree 442/1990.

- n **Environmental Incidence Assessment:** This is required for projects, works and plants corresponding to the public or private activities listed in Annex I.

For our purposes, Annex I includes conventional thermal power plants with an output of less than 50 MW<sub>th</sub> and steam generators with a capacity of over 20 t<sub>m</sub>/h of steam and heat generators with an output of

- n Filing at the Registry of Special Scheme Generation Plants.

In addition to the foregoing, the Autonomous Community of Galicia has regulated certain special procedures for the establishment of generation plants.

In particular, it has regulated procedures for the establishment of electricity generation plants from wind energy and electricity generation from forest biomass.

Regarding the production of electricity from forest biomass, we should note that the following authorisations regulated by Decree 149/2008 are required:

- n Selection of draft projects submitted in response to the public call for proposals.
- n Administrative authorisation and project approval.
- n Commissioning Certificate.

According to Law 8/2009, wind plants require the following authorisations:

- n Approval of the Sectoral Wind Plan of Galicia.
- n Selection of draft projects submitted in response to the public call for proposals.
- n Administrative authorisation and project approval.
- n Commissioning Certificate.

Lastly, we should note that electricity plants with a low-voltage connection do not require authorisation for construction but do require the submission of certain documents for commissioning.

We should note that the regulation governing thermal energy generation plants (heating, cooling and ventilation) is RD 1027/2007 –RITE, which does not require authorisation prior to construction but only notification to

over 2 000 th/h.

Other activities not included in the Annex but which are considered unpleasant, unhealthy, harmful and dangerous according to the definitions set out in Article 13 of Law 1/1995, are likewise subject to this procedure.

- n **Integrated Environmental Authorisation** where so required under the Pollution (Integrated Prevention and Control) Act, Law 16/200,2 addressed in the analysis of the national legislation.

- n **Activity Permit.**

Depending on the purpose of the energy produced (industrial or domestic use), thermal energy generation plants using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

the relevant body of the Autonomous Community.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

Pursuant to Decree 36/2001, the bodies competent to grant administrative authorisations for the construction, modification, use, transmission and closure of electricity generation, transmission and distribution plants where use only affects the Autonomous Community of Galicia and where transmission and distribution remain within territorial limits are as follows:

- n The Directorate-General responsible for energy matters for granting of authorisations for energy generation plants of any nature or output, transformer centres or plants with an output of 75 000 kVA or more and electricity transmission and distribution lines with voltages over 132 kV and inter-provincial lines of any voltage.
- n The territorial departments of the Regional Ministry responsible for energy matters are competent to issue authorisation for transformer centres whose output is less than 75 000 kVA and electricity transmission and distribution lines whose voltage is less than 132 kV.
- n The Council of the Regional Government of Galicia where the applicant and the Administration, body or public or general interest service undertaking affected which raised issues were unable to resolve their differences regarding technical conditions and the body competent to authorise the electricity plant does not accept the said conditions.
- n The body responsible for recognition of the public utility of these electricity plants is the one competent to issue their authorisation; however, competence passes to the Council of the Regional Government of

### TOWN PLANNING

The administration competent to grant the planning permit and the classified activity or opening permit is the **Local Corporation** at the site proposed for the plant.

In accordance with Law 10/1995 and Decree 80/2000, the Council of the Regional Government of Galicia is responsible for approving the Sectoral Wind Plan of Galicia.

### ENVIRONMENT

The authority competent to grant the **Environmental Impact Statement** is:

- n The Environmental Commission of Galicia, an organ of the Regional Ministry of the Presidency and Public Administration (environmental administrative body or environmental body).
- n Secretariat-General of the Environmental Commission of Galicia, which is responsible for the administrative processing of dossiers within its purview and the drafting of technical reports required by the commission.

The competent environmental body of the Regional Government of Galicia where the plant is to be located is responsible for granting the **Integrated Environmental Authorisation**.

The Administration competent to issue the **Environmental Effects Statement** is the Regional Ministry or body of the administration that under the applicable legislation is competent to grant administrative authorisation for the project.

The Regional Ministry responsible for environmental matters is likewise responsible for issuance of the **Environmental Incidence Assessment**.

The Local Corporations are competent to grant the **activity permit**.

Galicia where the administrations or bodies consulted expressly maintain their opposition to the public utility declaration and the department responsible for energy matters disagrees with its proposals.

According to Decree 8/2009, the following administrations are competent to grant the authorisations required for electricity generation plants using **wind energy** located within the territorial limits of the Autonomous Community of Galicia:

- n The Council of the Regional Government of Galicia is competent to approve the sectoral, project which is a prerequisite for construction, without prejudice to other applicable authorisations and permits.
- n The Directorate-General responsible for energy matters is competent to pre-select projects and to grant Administrative Authorisation, Project Approval and inclusion in the special scheme.

Granting of the authorisations needed to establish electricity generation plants using **forest biomass** is the competence of the Regional Minister responsible for energy matters, who is also responsible for selecting draft projects and granting Administrative Authorisation and Project Approval.

## INFORMATION MEASURES

### INDUSTRY

In accordance with the national legislation applied by default in the Autonomous Community of Galicia pending the enactment of implementing legislation, application for administrative authorisation must be publicised together with the Environmental Impact Study where the latter is required.

According to Decree 36/2001, public information of these

### TOWN PLANNING

In accordance with Law 10/1995 and Decree 80/2000, processing of the Sectoral Plans (for our purposes, the Sectoral Wind Plan) must be publicised for one month through an announcement in the Official Gazette of Galicia and in one of the largest circulation dailies of the Autonomous Community. A hearing must also be arranged for the Local Corporations affected.

### ENVIRONMENT

According to Decree 442/1990, the following publicity measures apply to the processing of the **Environmental Impact Statement**:

- n The Environmental Impact Study must be publicised for 30 working days.
- n The Environmental Impact Statement must be made public through publication in the Official Gazette of

authorisations is through publication in the Official Gazette of Galicia and in the Official Gazette of the Province concerned.

Also, according to RD 1955/2000, granting of Administrative Authorisation must be publicised.

According to Law 8/2009, **wind plant** construction is subject to the following public information measures:

- n First of all, the Sectoral Wind Plan of Galicia must be published.
- n Development of the different Wind Development Areas shall be by public tender through an Order of the Regional Ministry, which will be published.
- n Then, the application for administrative authorisation and approval of the wind farm project must be published for one month in the Official Gazette of Galicia, in the Official Gazette of the province concerned, on the bulletin board of the Local Corporation and in the largest circulation daily newspaper of the province.
- n Lastly, the decision approving administrative authorisation of the wind farm must be published in the Official Gazette of Galicia.

According to Decree 149/2008, the construction of electricity generation plants using **biomass** is subject to the following public information measures:

- n First of all, the call for tenders for the installation of biomass plants made by the Regional Ministry responsible for energy matters by means of an Order.
- n Then, applications for administrative authorisation and approval of the biomass project must likewise be publicised for one months through an announcement in the Official Gazette of Galicia, in the Official Gazette of the Province in question and in one of the largest-circulation daily newspapers of the province

Lastly, once the Sectoral Plan is approved it must be published in the Official Gazette of Galicia.

Galicia.

In accordance with Decree 327/1991, the **Environmental Effects Statement** must be publicised by the environmental body for 15 working days through an announcement in the Official Gazette of Galicia.

Also, according to Article 16 of Law 16/2002, the **Integrated Environmental Authorisation** must be publicised for thirty days. In addition, once a decision is made, it is to be notified to the authorities that reported on the application and to the interested parties.

Lastly, we should note that according to Article 133/2008, activity permit applications must be publicised for 20 days through an announcement in the Official Gazette of Galicia and in the Official Gazette of the Province in question as well as on bulletin boards.

Provision is also made for personal notification of neighbours and rights holders in the immediate vicinity of the proposed site.

concerned.

- n The decision approving administrative authorisation must be published in the Official Gazette of Galicia.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

Since the national legislation is generally applicable in the Autonomous Community of Galicia to the processing of these special scheme energy generation plants (i.e. RD 1955/2000 and 661/2007), the authorisation procedure has the same coordination mechanisms as envisaged in the aforementioned national law, which is applicable by default.

Among other requirements, in order to process the administrative authorisation, the competent authority must inform the different authorities, bodies, or where applicable public service or general interest undertakings, of any part of the plant that could affect property or rights for which they are responsible.

Moreover, should it prove necessary to conduct an environmental impact assessment of the plant, this is to be done in conjunction with the public information for the administrative authorisation of the plant. In such cases an Environmental Impact Statement must be forthcoming before the Administrative Authorisation is granted.

As regards the **wind plant authorisation procedure**, Law 8/2009 provides the following coordination mechanisms:

- n Draft projects are selected at the proposal of an assessment committee formed by representatives of the Regional Ministries with competences in the matters specified in the call for proposals.

### TOWN PLANNING

According to Law 9/2002, in cases where a classified activity or opening permit and a planning permit are required, these are covered by a single decision, although separate files may be opened and processed for each administrative intervention.

The draft decision on the classified activity or opening application will take priority over the decision regarding the planning permit. Should the former be denied, the interested party will be notified and no decision will then be needed for the latter.

No permit may be granted without proof of authorisation from the Autonomous Community, where applicable.

We should further note that processing of the Regional Authorisation begins at the Local Corporation, which must publicise and report on the application. Furthermore, the Regional Ministry responsible for planning may request whatever reports are deemed necessary from the appropriate sectoral bodies.

Lastly, we should note that Law 10/1995 and Decree 80/2000 provide the following coordination mechanisms with respect to processing of the Sectoral Plan required for the establishment of wind plants.

- n A hearing is to be given to the municipalities affected.
- n The requisite reports must also be requested,

### ENVIRONMENT

Decree 442/1990 provides for the following coordination mechanisms during processing of the **Environmental Impact Statement**:

- n First of all, public information is carried out by the decision-making bodies and is done together with the information on the substantive project under study.
- n The environmental body is also required to inform the decision-making body of the Regional Ministries, bodies and institutions, from which it must request reports.
- n Lastly, the Environmental Impact Statement issued by the environmental body is notified to the decision-making body before it is approved.

Decree 327/1991 provides that during the processing of the **Environmental Effects Statement**, reports be requested from the regional ministries, technical services and technical offices of the provincial environmental commissions and from bodies and institutions that are competent by virtue of the subject matter.

Also, once the Statement is issued, the decision-making body must be notified so that it can approve the project.

Law 16/2002 provides that an **Integrated Environmental Authorisation** shall not be granted without a prior Environmental Impact Statement.

Lastly, the following coordination mechanisms are envisaged



- n The project is publicised together with the Environmental Impact Study.
- n During the processing period, observations concerning the proposed technical conditions are requested from the administrations, bodies and public service undertakings affected.
- n An Environmental Impact Statement must be obtained before approval.

As regards the **biomass plant authorisation procedure**, Law 149/2008 provides the following coordination mechanisms:

- n Input must be provided by the Regional Ministries responsible for woodlands and the environment during the pre-selection of draft projects.
- n Where in response to the call for proposals, concurrent preliminary projects or applications are submitted which exceed the maximum output envisaged in the call, a proposal will be required from the Regional Ministry responsible for woodlands before the selection of draft projects is made.
- n During processing of the administrative authorisation, the administrations, bodies and public service undertakings affected will be requested to comment on the technical conditions proposed and a report will be requested from the provincial delegation regarding the project's compliance with the regulations governing industrial and electricity plants.
- n Where the application requires an environmental impact statement, the public information process is a joint one and no decision may be made until that environmental impact statement has been drafted.

including the report from the Regional Ministry of Territorial Policy, Public Works and Housing.

in the granting of the activity permit:

- n First of all, where an **Environmental Incidence Assessment** is required, the Local Corporation must forward the dossier to the Regional Ministry for latter to issue the assessment before a decision is made.
- n Also, before the Regional Ministry can issue its assessment, the Local Corporation must release a planning and environmental report on the activity and different bodies of the Regional Administration, depending on the nature of the activity, must give their opinions.
- n Regarding processing of the activity permit, according to Law 9/2002, in cases where a classified activity or opening permit and a planning permit are required, these are covered by a single decision, although separate files may be opened and processed for each administrative intervention.
- n The draft decision on the classified activity or opening application will take priority over the decision regarding the planning permit. Should the former be denied, the interested party is notified and no decision will then be needed for the latter.
- n No permit may be granted without proof of authorisation from the Autonomous Community, where applicable.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

Processing of the authorisations needed for the establishment and commissioning of generation plants follows the procedure laid down in the national legislation and we therefore refer to the analysis made in that connection to determine the procedure to be followed in the Autonomous Community of Galicia.

However, Law 8/2009 regulates the procedure for the establishment of **wind energy plants** and consists of the following steps:

- n **Preliminary step:** Approval of the Sectoral Wind Plan of Galicia by the Council of the Regional Government of Galicia.
- n **Step I (Public Call for Proposals):** Once the Sectoral Wind Plan is approved, the Regional Minister in charge of energy issues will issue a public call for proposals by means of an Order for the development of a Wind Development Area.

Within the time limit indicated, interested parties must submit their applications to the Directorate-General responsible for energy together with the documentation listed in Article 9 of Decree 242/2007. The said Directorate-General then verifies the capability of the applicants and rejects those not suited.

The Directorate-General then selects draft projects from among the proposals. If there are two or more draft projects from the same area or output in excess of that stipulated in the call is requested, a proposal for resolution will be required from the Assessment Committee.

### TOWN PLANNING

The procedure for obtaining a building permit is regulated in a general way in Law 9/2002, and consists of the following steps:

- n The applicant initiates the process by submitting an application (to which the full technical proposal drafted by a competent expert is appended). The list of items which must be included in the technical proposal is contained in Article 195 of Law 9/2002.
- n Minor works are exempt from having to append the technical proposal to the application.
- n Applications are subject to a technical and legal report drawn up by municipal services.
- n Permit applications are decided within three months of the date of submission of the application with all documentation appended at the register of the Local Corporation.
- n This limit is one month in the case of minor works.

Notwithstanding the foregoing, to know the exact procedure for the awarding of these permits, one must look to the specific regulations of the Municipal Corporation where the plant is located.

Lastly, we should note that the following procedure applies to processing of the Special Plan (required for the establishment of wind plants):

- n It begins with approval by the Council of the Regional Government of Galicia, at the request of the Regional Ministry responsible for energy, declaring it a Plan with supra-municipal impact.

### ENVIRONMENT

The applicable legislation provides no specific procedure to suit the nature of the plant it is proposed to build, the technology used or its capacity; the procedure for obtaining these authorisations is the general one laid down in the said regulations.

The procedure for obtaining the **Environmental Impact Statement** is regulated in Decree 442/1990, and consists of the following steps:

- n Submission of the Environmental Impact Study to the Secretariat-General of the Environmental Commission of Galicia, which in turn forwards it to the decision-making body for publication for 30 working days and collection of supplementary reports from the Administrations and bodies designated by the environmental body.
- n Upon conclusion of the foregoing step, the decision-making body forwards the dossier to the environmental body for formulation of the Environmental Impact Statement. The decision-making body may attach a draft environmental impact statement or any observations it deems relevant.
- n In the event that the environmental impact study is deficient, the environmental body has 30 days from the date it received the dossier to inform the decision-making body of the points that need to be remedied.
- n The decision-making body will then give the developer 20 days to submit a new environmental impact study.
- n Once the dossier is received, the environmental body will have 60 days to formulate the Environmental Impact Statement.

- n **Step II (Authorisation to Establish Wind Farms):** Within six months of notification of the selection decision, developers must submit their application for administrative authorisation, project approval, inclusion in the special scheme and approval of the public utility declaration where applicable, to the Territorial Department of the regional ministry in charge of energy or to the Directorate-General responsible for energy if more than one province is affected.

The application is publicised and submissions forwarded to the developer for response.

The body responsible for energy will take the necessary steps to obtain the technical specifications for authorisations from other administrations, bodies and public service undertakings. If these are not forthcoming within 20 days from the date of the request, a new request will be submitted. If no response is forthcoming after 10 days, agreement with the specifications envisaged is assumed.

Once the public information step is concluded, the dossier is forwarded to the Directorate-General responsible for energy (if the latter did not process it directly), which in turn sends it on to the environmental department for it to issue the Environmental Impact Statement.

Lastly, the Directorate-General takes its decision.

- n **Step III (Commissioning):** Once the plant is built, an application for commissioning must be submitted.

The authorisation procedure pertaining to **biomass power plants** is regulated by Decree 149/2008 and consists of the following steps:

- n **Step I (Public Call for Proposals):** The Regional Ministry responsible for energy issues an Order for a public call for proposals for the establishment of

- n The Sectoral Plan is publicised for one month.
- n In the light of the submissions made and reports issued, amendments or corrections will be made as required and it will then be forwarded to the Regional Ministry of Territorial Policy, Public Works and Housing for a report.
- n Final approval of the sectoral plan or project is issued by the Council of the Regional Government of Galicia, at the request of the responsible Regional Minister, and is then published.

- n The Environmental Impact Statement will be forwarded to the decision-making body for the latter to issue its decision regarding the project's administrative authorisation.

There is an environmental impact statement procedure for projects listed in Annex 1 of Decree 442/1999 which requires a Preliminary Opinion by the Secretariat-General of the Environmental Commission of Galicia regarding the specific content to be included in the environmental impact study, but in no case will this affect the issuing of the environmental impact statement.

The procedure for obtaining the **Environmental Effects Statement** is regulated in Decree 327/1991, and consists of the following steps:

- n The developer submits the final technical design, together with five copies of the environmental impact study, to the environmental body.
- n If it is complete, it is forwarded to the regional ministries affected, to the provincial Environmental Commission and to other bodies competent to issue the requisite reports by reason of the subject matter.
- n Once all reports and observations have been received, the dossier is sent to the developer for correction.
- n It is then publicised for 15 days.
- n Upon conclusion of the public information stage, the Environmental Effects Statement must be formulated within 30 days indicating whether or not the execution of the project is desirable, and if the conclusion is favourable the corrective measures that have to be implemented.
- n The dossier is sent to the decision-making body for a decision on authorisation for construction.

The procedure for granting of the **Activity Permit** where an Environmental Incidence Assessment is required is regulated

biomass power plants.

Interested parties submit their proposals to the Regional Ministry in charge of energy.

Once proposals have been submitted, a report is requested from the Regional Ministry responsible for woodlands on the feasibility of each project and from the Regional Ministry responsible for the environment on the business plan submitted and the need for an environmental impact assessment of the project.

Draft projects are selected by the Regional Ministry in charge of energy. If several competing projects are submitted or the output envisaged in the call is exceeded, a proposal for resolution is required from the regional ministry responsible for woodlands.

- n **Step II (Administrative Authorisation of the plant).** Developers have six months from the date of project selection to submit plant authorisation applications to the provincial delegation of the regional ministry responsible for energy or to the Directorate-General if the project affects more than one province.

This application is publicised together with the Environmental Impact Study where the latter is required.

Submissions made during the public information stage are forwarded to the applicant for response.

The body responsible for energy will take the necessary steps to obtain the technical specifications for authorisations from other administrations, bodies and public service undertakings affected and will request a report from the provincial delegation regarding the project's compliance with the regulations governing industrial and electricity plants

At the conclusion of the process, the Directorate-General will issue its decision.

in Decree 133/2008, and consists of the following steps:

- n The developer submits an application to the Local Corporation.
- n The Local Corporation then issues a planning compliance report. If it finds that the activity does not comply, the permit is denied.
- n If it is deemed to be in compliance, it is publicised.
- n Upon conclusion of the public information stage, the dossier is forwarded to the Regional Ministry responsible for the environment together with submissions, the planning report and the report on the activity's environmental impact on the local environment, to be issued by the Local Corporation.
- n The Regional Ministry responsible for the environment then requests reports from the bodies of the regional administration from which reports are required by reason of the subject matter, to be returned in 15 days.
- n Once that procedure is concluded, the regional ministry responsible for the environment issues an opinion on environmental incidence and sends it to the Local Corporation.
- n The Local Corporation's decision on the permit will reflect the content of the opinion on environmental incidence.

According to the First Additional Provision of Decree 133/2008, where the project is subject to an environmental impact or effects assessment, the latter is to be processed in accordance with the rules regulating those procedures. In these cases, the Environmental Impact Statement or Environmental Effects Statement will, for all intents and purposes, replace the opinion on environmental incidence.

Finally, we should note that the procedure for obtaining an **Integrated Environmental Authorisation** has not been implemented by the Autonomous Community, and hence we

n **Step III (Commissioning):** Plants must be built within 18 months, but an extension of 9 months may be requested.

As already mentioned, low-voltage electricity plants do not require authorisation prior to construction. However, pursuant to the Order of 23 July 2003, the authorised installer must submit certain documentation to the Provincial Delegation before operation may commence.

The building of thermal energy generation plants does not require preliminary authorisation either but only notification to the competent body of the Autonomous Community before it is put into service.

In particular, according to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, a project is required for the commissioning of newly built thermal installations and the modification of already existing ones where the rated thermal output to be installed for heating or cooling is over 70 kW. Where the rated thermal output to be installed for heating or cooling is between 5 kW and 70 kW, a technical memorandum will suffice in lieu of the project. The installation certificate must be registered with the competent body of the Autonomous Community where the installation is located and the installation firm is required to submit certain documentation.

Once the documentation submitted has been checked, the installation certificate is registered by the competent body of the Autonomous Community and the installation may be put into service.

Presentation of the above documentation is not mandatory to demonstrate regulatory compliance to the competent body of the Autonomous Community in the case of heating or cooling installation with a rated thermal output of less than 5 kW, hot water installations using instantaneous heaters, accumulation heaters and immersion heaters where the rated thermal output of each individually or their sum is 70 kW or less, and solar systems composed of a

refer to the national legislation as mentioned in this section (i.e. Law 16/2002).

single prefabricated element.

RD 2060/2008 adopting the Regulation of Pressurised Equipment applies to thermal installations not located in buildings and, according to Decree 223/1998, before construction these installations simply require verification of compliance with safety conditions, which must be submitted to the relevant competent Autonomous Community body if pressurised equipment belonging to categories I to IV listed in Article 9 and Annex II of Royal Decree 769/1999 of 7 May 1999 is used.

On-site tests must be performed before commencement of operation.

## TIME LIMIT FOR GRANTING

### INDUSTRY

The time limit for granting of the industrial authorisations required for the establishment of electricity generation plants using renewable energy sources and associated facilities is that provided in Royal Decree 1955/2000, analysed earlier, which is applicable by default (3 months from the date of submission of the application to issue and notify a decision. The same time limit for approval of the Final Design, and 1 month for the commissioning certificate).

The time limit for granting of authorisation for **wind plants** is as follows:

- n Four months for selection of draft projects.
  - n Two months to issue a decision on administrative authorisation, project approval and inclusion in the special scheme.
- If no express decision is forthcoming within that time, the application shall be considered denied.

The time limit for granting of authorisations for **biomass**

### TOWN PLANNING

In accordance with Law 9/2002, permit applications are decided within three months of the date of submission of the application with all documentation appended at the registry of the Local Corporation.

This limit is one month in the case of minor works.

In accordance with Articles 43 and 44 of the Public Administrations and Common Administrative Procedure (Legal Regime) Act, Law 30/1992, if no decision is forthcoming within that time, the permit is considered granted by virtue of administrative silence.

However, where the establishment of an energy generation plant on rustic land is authorised by means of a building permit, no decision within the time limit means that the permit is denied.

This is all without prejudice to any Municipal by-laws applicable in each case.

### ENVIRONMENT

The following time limits apply to the aforementioned environmental authorisations:

- n Sixty days for the Environmental Commission of Galicia to issue the Environmental Impact Statement from the date the full dossier is received (including supplementary documents and corrections, if any). The dossier is then forwarded to the environmental body.
- n Thirty days from the conclusion of the public information period for issuance of the Environmental Effects Statement.
- n Three months from the entry of the dossier at the Regional Ministry for the Regional Ministry responsible for the environment to issue the environmental incidence ruling.
- n Ten months from the date of application for granting of the Integrated Environmental Authorisation. If no decision is forthcoming within that time, the application shall be considered denied by virtue of administrative silence.

**power plants** is as follows:

- n Three months for selection of draft projects if there are no competing proposals or the maximum output stipulated in the call is not exceeded. Otherwise, the limit is six months.
- n Six months for administrative authorisation and project approval.

The application shall be considered denied if no express decision is forthcoming within the given time limit.

## FEES

### INDUSTRY

The statute governing industrial matters is Law 6/2003 on fees, prices and regulatory charges in the Autonomous Community of Galicia.

- n The taxable event for the fee consists of administrative services relating to the granting of authorisations, permits, licenses, etc. which authorise the holder to engage in an activity legally subject to certain established conditions.
- n Taxable persons liable to pay this fee are the natural or legal persons who request or instigate the administrative actions that constitute the taxable event.
- n The fee becomes payable upon submission of the application for the services which are the object of the administrative authorisation.

Having regard to wind farms, Law 8/2009 of 22 December 2009 regulates the wind charge applicable within the territorial limits of the Autonomous Community of Galicia.

### TOWN PLANNING

Having regard to town planning at regional level, the Municipal Permit for the establishment of electricity, gas, water supply and sanitation transmission and distribution networks on Rustic Land under an Ordinary Protection Regime, provided that they do not imply development of the land through which they pass, are subject to the payment of a fee in accordance with Article 21 of Law 6/2003 on fees, prices and regulatory charges in the Autonomous Community of Galicia.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

One must therefore look to the regulations contained in the by-laws of each municipality.

### ENVIRONMENT

Having regard to the environment, we should note that Law 6/2003 on fees, prices and regulatory charges in the Autonomous Community of Galicia is applicable to the processing of the Integrated Environmental Authorisation.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

- n The **taxable event** for the wind charge is the sum of a variety of visual and environmental effects and impacts on the natural environment and the territory as a result of the establishment of wind farms composed of electricity producing wind turbines located in the Autonomous Community of Galicia.
- n The taxable event shall be registered even if the wind turbines are not owned by the holder of the administrative authorisation for establishment of the wind farm.
- n The **tax period** shall coincide with the calendar year.
- n The fee is **payable** on the date that the completed wind farm is formally received from the builder and, in successive years, on the first day of the calendar years during which the administrative authorisation is in force.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

In accordance with the Order of 23 July 2003, the commissioning of low-voltage electricity plants requires the submission of certain documentation by the authorised installer who assembled the plant.

According to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

In accordance with RD 2060/2008, the commissioning of thermal plants for industrial use require the submission of certain documentation drawn up by authorised installers.

### TOWN PLANNING

### ENVIRONMENT



# **AUTONOMOUS COMMUNITY OF THE BALEARIC ISLANDS**

## AUTONOMOUS COMMUNITY OF THE BALEARIC ISLANDS

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of the Balearic Islands, the following regulatory provisions are in force which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) plants using renewable energy sources.

- n **Decree 99/1997** of 11 July 1997. Administrative procedure applicable to formalities for plants.
- n **Order of 14 October 2002** implementing certain aspects of supply and distribution of electricity on rustic land.
- n **Decree 36/2003** of 11 April 2003. This amends Decree 99/1997 of 11/07/1997 regulating the administrative procedure applicable to processing of electrical installations in the Autonomous Community of the Balearic Islands.
- n **Decree 96/2005** of 23 September 2005. Final approval of the review of the Balearic Islands Master Plan for the Energy Sector.
- n **Decision of 30 June 2006**. Temporarily and provisionally authorises plants contemplated in the Balearic Islands Master Plan for the Energy Sector to guarantee the electricity supply.
- n **Agreement of 6 October 2006**. Approves the Programme to promote photovoltaic energy in the Balearic Islands.

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of the Balearic Islands:

- n **Law 10/1990 of 23 October 1990**, on urban planning in the Balearic Islands.
- n **Law 1/1991 of 30 January**, regulating natural areas and planning rules for specially-protected areas.
- n **Law 6/1997 of 8 July 1997** on Rustic land in the Balearic Islands.
- n **Law 6/1999 of 3 April 1999** on Guidelines for town and country planning and fiscal measures.
- n **Law 14/2000 of 21 December 2000** on Land Use Planning in the Balearic Islands.
- n **Law 8/2003 of 25 November 2003** on urgent town and country planning measures in the Balearic Islands.
- n **Law 4/2008 of 14 May 2008** on urgent measures for sustainable land development in the Balearic Islands.

#### ENVIRONMENT

Besides the State regulations, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of the Balearic Islands:

- n **Decree 18/1996** of 8 February 1996, approving the Regulation on classified activities.
- n **Law 11/2006 of 14 September 2006** on environmental impact assessments and strategic environmental assessments in the Balearic Islands.
- n **Law 6/2009** of 17 November 2009 on Environmental measures to promote investment and economic activity in the Balearic Islands.
- n **Law 16/2002 of 17 October 2002** on the legal status of Integrated Activity Permits in the Balearic Islands.

- n **Decision of 9 October 2006** by the Director-General of Energy approving the procedure for connection of special scheme producers in the Balearic Islands area in the case of the undertaking Endesa Distribución Eléctrica, SLU.
- n **Decision of 22 January 2010** ordering publication of a Circular from the Director-General of Energy, dated 5/10/2010, laying down the criteria for the registration of photovoltaic plants of not more than 100 kW output with a low-voltage connection in the registry of special scheme electricity generation and their exclusion from the system requiring prior Administrative authorisation.
- n **Decree 57/2010** of 16 April 2010, implementing and complementing several regulatory provisions laid down in Royal Decree 1027/2007.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 30(35) of the Statute of Autonomy of the Balearic Islands approved by Organic Law 2/1983 of 25 February 1983, as set out in Organic Law 1/2007, confers exclusive competence on the **Autonomous Community of the Balearic Islands** in respect of energy production plants and the distribution and transport of electrical energy where the transport remains within the Community and its use does not affect another Autonomous Community, with due regard for the terms of Article 149(1)(25) of the Constitution.

Article 31(15) also grants competences in implementing legislation and execution in respect of mining and energy

### TOWN PLANNING

Article 30(3) of the Statute of Autonomy of the Balearic Islands approved by Organic Law 2/1983 of 25 February 1983, as set out in Organic Law 1/2007, confers exclusive competence on the **Autonomous Community of the Balearic Islands** in respect of land use planning, including the coast, town planning and housing.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of protection of the environment.

Article 30(46) of the Statute of Autonomy of the Balearic Islands approved by Organic Law 2/1983 of 25 February 1983, as set out in Organic Law 1/2007, confers competence on the **Autonomous Community of the Balearic Islands** in respect of protection of the environment, ecology and protected natural spaces, without prejudice to the basic national legislation.

regulation.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

According to additional provision 8 of the Rustic Land Act, Balearic Islands Law 6/1997 of 8 July 1997 promoting the introduction of renewable energies, the regional minister of the Government of the Balearic Island responsible for energy matters is empowered to regulate, by means of a regulatory provision, the requisite administrative procedure for authorisation, and more specifically the declaration of photovoltaic solar energy plants connected to the Balearic Islands electricity grid as public energy utilities, whose location must be weighed in the balance of the natural values of the area where they are to be set up.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

According to Decree 99/1997 (in the wording published in Decree 36/2003), the construction of electricity generation plants (including those using renewable energy sources) shall require the following authorisations:

- n No authorisation shall be required to set up private plants; the only requirements shall be filing at the Industrial Registry before the plant is put into operation.
- n Plants of up to 15 kV shall require the following authorisations:
  - Administrative authorisation prior to construction of the plant.
  - Authorisation to operate.

Plants of more than 15 kV require the authorisations listed in RD 1955/2000. These are:

### TOWN PLANNING

According to Law 10/1990 and Law 6/1997, the following planning authorisations shall be required for construction of electricity generation plants and connecting installations:

- n **Building Permit.**
- n **First use permit.**
- n **General Interest authorisation**, where the plant is to be sited on rustic land, and there is no provision for such an installation in the general planning or the town and country planning instruments.

In any case, according to Additional Provision 8 of Law 6/1997, the Public Energy Utility Declaration to be regulated in implementing legislation will implicitly include a Declaration of General Interest of photovoltaic solar energy plants and exemption from prior municipal checks and from the permits and the authorisations and reports provided for in Law 8/1995 of 30 March 1995.

### ENVIRONMENT

For the construction of **plants for generation of electricity using renewable energy sources and connecting installations** the following environmental authorisations will be required:

- n **Installation permit**, required by Law 16/2006 for the introduction of activities liable to be unpleasant, affect environmental health conditions, cause environmental harm or pose risks to persons or property, and likewise for catalogued activities and harmless activities.
- n **Opening and operating permit**, required by Law 16/2006 for the commissioning of all plants that require an installation permit.
- n **Environmental Impact Statement** in the cases listed in Annex I of Law 11/2006, in the cases listed in Annex II where the environmental body so decides, and also any other project not included in Annex I that might affect areas included in the Natura 2000 European

- Administrative authorisation of the draft project.
- Project approval.
- Project commissioning certificate.

According to the Directorate-General of Energy Circular of 5 January 2010, plants with outputs not exceeding 100 kW with a low-voltage connection do not require an authorisation.

We should note, however, that where such plants are registered with the Special Scheme, according to RD 661/2007 the following authorisations must also be obtained:

- n Status as a Special Scheme plant.
- n Filing at the Registry of Special Scheme Electricity Generation plants.

In the case of **thermal energy generation plants** (heating and/or cooling), we should note that the rules applying to this kind of plant do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

Moreover, pending the approval of a law to regulate land use and housing in the Balearic Islands, the terms of this provision will be applicable to renewable energy plants (photovoltaic solar, wind, biomass and others) connected to the Balearic Islands grid irrespective of the type of land on which they are to be located.

The construction of **thermal energy generation plants** (heating and/or cooling) using renewable energy sources shall require the following planning authorisations depending on the impact of the works:

- n Building permit, depending on the planning impact of the proposed plant.
- n First use permit.

Ecological Network where the environmental body so determines, and in the case of projects that could have significant environmental impacts where a law or regulation so requires.

Annex I includes the following plants:

- Thermal power stations and other combustion plants.
- Industrial plants for electricity, steam and hot water production with a heat rating of at least 50 MW.
- Electricity transformer substations of 10 MW and upwards.
- Electric power lines between 15 and 66 kV on protected rustic land, with ANEI or ARIP status, protected areas pursuant to Law 4/1989, and areas of environmental importance pursuant to Law 5/2005.
- Power lines carrying 66 kV or more.
- Wind plants of 100 kW or more, including grid connection cabling.
- Photovoltaic plants of 100 kW or more, including grid connection cabling.

Annex II includes the following projects:

- Power transmission lines of less than 15 kV on protected rustic land, with ANEI or ARIP status, protected areas pursuant to Law 4/1989, and areas of environmental importance pursuant to Law 5/2005.
- Photovoltaic plants of less than 100 kW covering an area of more 500 m<sup>2</sup> on rustic land or 1500 m<sup>2</sup> on urban or industrial land, including grid connection cabling.

- n **Strategic Environmental Assessment**, in cases cited

in Annex III of Law 11/2006, which include Plans or Programmes that lay down a framework for future authorisation of projects subject by law to environmental impact assessment in energy-related matters.

- n **Integrated Environmental Authorisation**, in the cases cited in Law 16/2002.

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Decree 99/1997, the body competent to grant the authorisations necessary to set up electricity generation plants is the **Directorate-General of Industry at the Department of Agriculture, Trade and Industry of the Government of the Balearic Islands**.

### TOWN PLANNING

The authority competent to grant building permits and first use permits is the Local Corporation of the municipality where the plant is to be sited, in the case of both electricity generation plants and thermal energy generation plants and associated facilities.

According to Article 26 of the Rustic land Act (Law 6/1997), the body competent to issue a declaration of general interest status in respect of admissible activities on rustic land is the Island Planning Commission concerned, unless the plant affects the territory of more than one Consell [District], in which case the decision lies with the Government of the Balearic Islands.

### ENVIRONMENT

The authority competent to grant an **Installation Permit and an Opening and Operating Permit** is the Local Corporation of the municipality where the plant is to be sited.

However, as explained below, activities subject to an installation permit for large-scale permanent activities require a Global Opinion on the Activity to be issued by the appropriate Island Council except in cases of local corporations with more than 15 000 entitled inhabitants, the Local Corporation of Formentera and Local Corporations or districts to which that competence has been delegated.

It shall fall to the Environmental Commission of the Balearic Islands to issue an Environmental Impact Statement on projects, plans or programmes subject to an **environmental impact assessment or strategic environmental assessment**, to be authorised, drawn up, adopted or approved by the Administration of the Autonomous Community, the island councils, the municipalities or public law entities connected with or dependent on these territorial administrations.

It falls to the environmental authority of the Autonomous Community of the Balearic Islands to carry out the mandatory enquiry provided for in the basic national legislation, where it is the competence of the General State Administration to compose the environmental impact statement on projects that it has to authorise, draw up or approve.

## INFORMATION MEASURES

### INDUSTRY

According to Decree 99/1997 and RD 1955/2000, any application for construction of power generation plants of more than 15 kV must go through a public information process entailing announcement in the Official Gazette of the Balearic Islands, for a period of at least twenty days.

It is further provided that the Decision granting Administrative Authorisation for the plant likewise be published in the Official Gazette of the Balearic Islands.

### TOWN PLANNING

According to Law 6/1997, applications for authorisations of general interest on rustic land are subject to a 15-day public information requirement in the form of an announcement in the Official Gazette of the Autonomous Community and on the bulletin board of the Local Corporation concerned.

### ENVIRONMENT

According to Law 16/2006, the procedure for granting of a **Permit for the introduction of large-scale permanent activities** includes a requirement that the application for an Installation Permit be subject to public information during the initial phase in the form of publication for ten days at least in one island newspaper, to allow natural or legal persons, associations, neighbourhood entities and any interested parties to submit any comments that they deem pertinent.

In addition, it is required that the application be announced by placement of a notice at the site where it is proposed to set up the activity.

Law 11/2006 establishes the following information measures as part of the **Environmental Impact Assessment** procedure:

- n In the first place, the Environmental Impact Assessment is to be publicised by the decision-making body during a maximum period of thirty days as part of and simultaneously with the requisite procedure for authorisation or execution of the project concerned.
- n If the substantive procedure for authorisation or approval of the project does not require the public information procedure, the environmental body shall directly initiate that procedure for the project and the environmental impact study and shall request whatever reports it deems necessary. This public information must be announced in the "Butlletí Oficial de les Illes

Balears", in at least one of the largest-circulation dailies on the island where the action is proposed, and on the website of the environmental body, for a period of not less than thirty days.

- n It is likewise mandatory for the statement of environmental impact, or the resolution settling differences as the case may be, to be published by the environmental body in the "Butlletí Oficial de les Illes Balears" for the public's general information, within a maximum of one month from its adoption.
- n In addition, once the decision on execution of the project is taken, the decision-making body must publicise it and send it to the "Butlletí Oficial de les Illes Balears" for publication within a maximum of fifteen days.

As regards processing of the **Integrated Environmental Authorisation**, we should note that according to Article 16/2002[sic], the application must be publicised for a period of thirty days. In addition, once a decision is made, it is to be notified to the authorities that reported on the application and to the interested parties.

According to Law 11/2006, the public information procedure for projects requiring an Integrated Environmental Authorisation must be conducted by the decision-making body directly concerned..

Finally, as regards processing of the **Environmental Impact Assessment of Plans or Programmes**, we should note that Law 11/2006 provides for the following information measures:

- n The promoting body has a maximum of two months as from the conclusion of the enquiry phase in which to send the environmental report to the environmental body, which must publish its decision on the environmental report in the "Butlletí Oficial de les Illes Balears" for general information within a maximum of



one month following that decision.

- n Once the plan or programme has been approved, the promoting body shall make the following documentation available to the environmental body, the public administrations concerned, the public, and where appropriate the Member States consulted, through a public announcement in the "Butlletí Oficial de les Illes Balears":
  - The plan or programme as approved.
  - A statement reporting incorporation of environmental aspects, consideration of the environmental sustainability report, the results of the enquiries, and where appropriate cross-border enquiries, the environmental report and the decision of the environmental body on it.

We should note one particularity where in the processing of the Environmental Impact Assessment in plans or programmes affecting small areas, minor modifications and plans or programmes not subject thereto which lay down a framework for future projects, the decision of the Environmental Body as to whether or not these should be subject to a Strategic Environmental Assessment be published in the "Butlletí Oficial de les Illes Balears", with an explanation of the rationale behind the decision.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

The procedures for power generation plants of more than 15 kV have the same systems of coordination as in the national regulations described, as these are applicable by default.

Among others there is a rule whereby in order to process the administrative authorisation, the competent authority must inform the different authorities, bodies, or where applicable public service or general interest undertakings,

### TOWN PLANNING

Law 10/1990 established the following means of coordination for the permit granting procedure:

- n Firstly, where the project for which a permit is sought is of a kind that requires reports or authorisations from various bodies, the permit may not be granted unless these reports are included in the application file or are understood to be favourable.

### ENVIRONMENT

Law 16/2006 lays down the following coordination mechanisms in the procedure for granting of **installation permits**:

- n First, it provides that the installation permit and the building and land use permit must be in agreement, and the installation permit must be granted before the latter can be granted.

of any part of the plant that could affect property or rights for which they are responsible.

Moreover, should it prove necessary to conduct an environmental impact assessment of the plant, this is to be done in conjunction with the public information procedure for the administrative authorisation of the plant. In such cases an Environmental Impact Statement must be forthcoming before the Administrative Authorisation is granted.

According to Decree 99/1997, applications for generation plants of 15 kV or less must be accompanied by:

- n A list of bodies and/or official corporations and public undertakings that own the public-domain property affected by the plant.
- n The documents certifying possession of the requisite permits, licences or authorisations issued by public bodies, official corporations or undertakings.

n Also, if any reports missing from the file have to be issued by other bodies or organisations belonging to the same Authority, the body responsible for deciding on the permit shall request and process them ex officio.

n And again, if the Local Corporation lacks adequate technical and/or legal services to draw up the technical and legal reports, these may be requested from the appropriate Island Council.

Also, Law 6/1997 provides that the following coordination mechanisms must be applied in procedures for the granting of building permits that affect rustic land.

- n Permits, authorisations or reports from bodies or entities other than the local corporation that are required because of the nature of the activity must be included in the file.
- n Also to be included where required is the declaration of general interest or the binding report from the relevant island planning commission, and where applicable the authorisation, justified by the island planning commission with regard to the installation conditions.

Law 6/1997 provides that the procedure for granting of a general-interest authorisation on rustic land must be initiated through the Local Corporation concerned, which must issue a reasoned municipal report, and the final decision lies with the Island Planning Commission.

n It further provides that activities requiring the granting of an Integrated Environmental Authorisation are regulated by the terms of the same Law.

n As for all other authorisations, it provides that the procedure for granting of an installation permit may not be initiated without a general interest authorisation on rustic land having first been obtained if the plant is to be sited on rustic land, the requisite Environmental Impact Statement where required, and any sectoral authorisations that must first be granted according to the applicable regulations.

n The Law also lays down a number of mechanisms for coordination among the various Territorial Authorities, either on technical or legal matters, where the local authority lacks adequate means.

n Lastly, in cases of large-scale permanent activities, an Integrated Opinion on the Activity must be issued, by the competent Island Council other than in the exceptional cases mentioned earlier.

With regard to the **Opening and operating permit**, Law 16/2006 provides that the permit may not be granted without prior submission of the sectoral authorisations necessary for the commissioning of the plant.

As to the procedure provided in Law 11/2006 for processing of the **environmental impact assessment**, we should note that the same Law lays down the following coordination mechanisms:

n In the first place it provides that before substantive approval of projects subject to environmental impact assessment, the environmental body must obtain an Environmental Impact Statement.

n Secondly, the following mechanisms are provided in connection with Annex I projects:

- During the prior Enquiry phase, the competent Environmental Body must refer the application to

any institutions and authorities that may be affected so that they can give an opinion on the scope of the Study.

- Also, simultaneously to the public information process, the decision-making body is required to consult the affected public administrations which have been consulted already regarding definition of the scope and level of detail of the environmental impact study.
- n In the Environmental Impact Assessment process for Annex II projects and projects not included in Annex I that may affect areas belonging to the Natura 2000 European Ecological Network, an additional coordination mechanism is provided whereby during the prior Enquiry phase the Environmental Body responsible for deciding whether or not the project should be subject to an Integrated Environmental Assessment shall forward the application to any institutions and authorities that may be affected for comment.
- n Where an environmental report is necessary, the decision-making body shall request such a report from the environmental body, to which it shall forward a copy of the projects and an environmental memorandum.

Finally, as regards the **Strategic Environmental Assessment of Plans or Programmes**, Law 11/2006 provides for the following information coordination mechanisms to be incorporated in the process:

- n The promoting body is to submit to the environmental body the documentation necessary for it to determine the breadth, scope and level of detail of the environmental sustainability report and the enquiry may be extended to other public or private natural or legal persons with an interest in environmental protection.
- n In addition, in the case of planning instruments for urban development, unless these have been

incorporated in the substantive procedure, at least the following mandatory and decisive reports must be requested:

- A report from the water authority on availability of drinking water in adequate quantity and quality, on adequate capacity of the sewage and treatment network for the population currently served and the population envisaged by the proposed planning, and on protection of the public water domain.
  - A report from the coasts authority on demarcation and protection of the public marine-terrestrial domain if appropriate.
  - Reports from the authorities competent in matters of roads, railways, ports, airports, energy and other affected infrastructures regarding how they are affected and the impact the works will have on the service capacity of these infrastructures.
- n On conclusion of the enquiry phase, the promoting body, in cooperation with the environmental body, shall draft a Law on Environmental Impact Assessments and strategic environmental assessments in an environmental report.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

According to Decree 99/1997, as set out in Decree 36/2003, plants of more than 15 kV follow the procedure provided in Royal Decree 1955/2000, the course of which was examined in the section on the national legislation, subject to the following particularities:

- n The public information procedure and the decision to grant authorisation shall be published in the Official Gazette of the Balearic Islands.
- n The procedure for commissioning shall be as

### TOWN PLANNING

The procedure for obtaining a **building permit** is regulated in a general way in Law 10/1990, and consists of the following steps:

- n It commences with the application by the interested party.
- n The necessary legal and technical reports are issued.
- n The Local Corporation issues a decision.

However, for exact details of the procedure, it is necessary

### ENVIRONMENT

The procedure for granting of **installation and opening and operating permits** is regulated in Law 16/2006, according to which there are various different procedures, essentially permanent and non-permanent activities, and within the permanent category the following:

- n Large-scale permanent activities. For the purposes of the study, these include the following:
  - Industrial plants capable of producing major accidents or risks of disasters, which are currently

provided for plants of 15 kV or less.

In the case of plants of 15 kV or less, the procedure provided in Decree 99/1997 consists of the following phases:

- n Before commencing installation works, the owner of the plant must submit an application to the Government of the Balearic Islands for administrative authorisation for the plant.
- n The Directorate-General of Industry shall decide on the application within a maximum of one month.
- n Upon completion of the works and the requisite tests and trials, the owner shall submit the final certificate of works for the plant, signed by an authorised technical expert.
- n After examining the documentation, the Directorate-General of Industry shall decide whether to authorise the plant to operate.

For purposes of **Recognition of a Plant under the Special Scheme** and **Filing at the Registry of Special Scheme Energy Generation plants** the national legislation shall apply.

Finally, in the case of thermal plants, Decree 57/2010 requires that before commissioning, plants with thermal ratings of 5 kW or more in heat or cold generation must be registered at the Directorate-General of Industry, for which the procedure is as follows:

- n The installation undertaking must submit the documentation required for registration of thermal equipment in buildings directly to the Directorate-General of Industry.
- n Once the thermal plant is registered, the installation undertaking shall deliver the documentation indicated in the above-cited Decree to the owner of the plant.

Installations of less than 5 kW thermal rating in heat or

to examine the regulations laid down in the municipal by-laws.

Also, according to Law 1/1991, in Special Interest Natural Areas, no new buildings will be permitted other than those classified as public utilities, and therefore, as provided in Article 10, it will be necessary to substantiate the need to locate it in a protected area and show that any technically feasible alternatives will affect areas of comparable or greater natural or scenic value.

Also, according to Article 19 of Law 1/1991, the installation of new overhead telephone or electricity cables shall only be permitted if it is demonstrated that their passage through a Special Interest Natural Area or a Rural Area of Scenic Interest is absolutely necessary.

On rustic land, Article 24 of Law 6/1997 provides that for uses connected with electricity or gas production, service, transmission or supply centres to be admissible they must be contemplated in the general planning instruments or land use planning instruments. Failing that, implementation of the activity shall require a prior declaration of general interest unless such a declaration is implicit in the approval of the project under the specific legislation.

If a general interest declaration is required, the procedure shall be as provided in Law 6/1997.

- n Application shall be made to the relevant Local Corporation.
- n The Corporation shall issue a reasoned report on the application and forward it to the competent body that is to issue the declaration.
- n The latter body shall submit the application to public information and shall request reports from the bodies and authorities competent to deal with the matter concerned.
- n Upon completion of the above steps, a decision shall be issued on the application and the Local

regulated by RD 1254/1999 and RD 1196/2003.

- Activities whose total floor area exceeds 750 m<sup>2</sup>.
- Activities that require a general interest declaration because their proposed site is on rustic land.
- Activities that require an environmental impact assessment.

- n Small-scale permanent activities. For the purposes of the study, these include the following:

Activities having a total floor area of up to 750 m<sup>2</sup>.

- Activities for whose performance no additional measures are needed for soundproofing or acoustic insulation in floors, ceilings and walls to prevent the propagation of noise or vibrations in excess of the limits currently permitted.
- Where the weighted fire load is 400 Mcal/m<sup>2</sup> or less.
- Activities with pressure vessels not requiring a technical project under the applicable legislation.

- n Harmless activities: These include unmanned power systems and unmanned electricity transmission and distribution installations other than electricity substations, and air conditioning installations of up to 15 kW output in dwellings or premises.

In any case the procedure for obtaining an **Installation permit for large-scale permanent activities** consists of the following steps:

- n The procedure is initiated at the request of the natural or legal person proposing to install the plant.
- n The municipal technical and legal services shall issue a report on the compliance of the activity with municipal planning and by-laws and on the application's compliance with the applicable legislation.

cold generation, single-person hot water installations using instantaneous water heaters, accumulation heaters or immersion heaters, where the nominal output of each one separately or of all together is 70 kW or less, and solar systems consisting of a single prefabricated element, need not be registered at the Directorate-General of Industry.

Corporation shall be notified.

Notwithstanding the foregoing, we should note that according to the Eighth Additional Provision of Law 6/1997, the following shall be required for the plant to be declared a public energy utility:

- n A declaration of public interest for siting of the plant on rustic land.
- n Exemption from the municipal preventive control measures cited in Article 84(1)(b) of Law 7/1985 (i.e. issue of a permit).
- n Exemption from the system of permits, authorisations and reports laid down in Law 8/1985 in connection with activity permits.

- n If the report concludes that the activity contravenes the planning or the applicable legislation, the Mayor shall reject the application.
- n If it is in compliance, it shall be subject to public information.
- n After that, the Island Council shall issue an Integrated Opinion on the Activity, other than with regard to the exceptions indicated.
- n That opinion shall evaluate the preventive, corrective, control and safety measures proposed to eliminate or ameliorate harmful effects or risks for persons and property.
- n Following issuance of the opinion, the Mayor shall grant the installation permit.

One particularity we should note is that the procedure for granting of **installation permits for small-scale permanent activities** is limited to issuance of the legal and technical reports required above following presentation of the application, and there is no need to obtain an Integrated Opinion on the Activity.

Finally, for the **installation permit for harmless activities** the interested party simply has to submit an application with the documentation required by Law 16/2006. The Local Corporation has one month in which to examine the documentation and request any corrections that may be necessary. If no decision is forthcoming within the stipulated time, the applicant may commence the activity.

Then, once the installations are completed, the interested party must apply to the Local Corporation for a **municipal opening and operating permit**. This entails a series of tests and a check, whose final outcome is decided by the Mayor or the appropriate municipal office.

Another particularity we should note is that according to Article 27 of Decree 96/2005 approving the Energy Sector Master Plan, where special-scheme electricity generation

plants (i.e. plants using wind, solar, biomass, hydraulic or similar energy sources) are declared public utilities by the Director-General of Energy they shall not be subject to municipal preventive control measures (i.e. the granting of permits) or to the system of permits, authorisations or reports laid down in Law 8/1995.

The procedure laid down in Law 11/2006 for the **environmental impact assessment** of projects consists of the following steps:

- n Firstly, before the project environmental impact assessment procedure begins, there is a mandatory phase of consultation with the environmental body to define the scope of the study.  
  
During this phase, the environmental body has to make preliminary enquiries with the persons, institutions and authorities that will foreseeably be affected by execution of the project, to which it must forward a copy of the summary report and request a reply within a maximum of fifteen days.
- n Once the scope of the study is defined, it shall be presented to the decision-making body, which shall initiate a public information procedure in respect of the Environmental Impact Study and the project; at the same time it shall request whatever mandatory reports may be necessary and advise the affected Authorities and Bodies for comment.
- n Thereafter, the technical committee of the environmental body, in light of a technical and legal report, shall propose a decision.
- n Finally, the environmental body shall issue the requisite Environmental Impact Statement, which shall be notified to the decision-making body and published in the Official Gazette of the Balearic Islands.
- n If there are any points of disagreement with the decision-making body, two representatives shall be

appointed from each authority and allowed one month to reach an agreement.

If no agreement is reached, the dispute shall be settled either by the Governing Council if the project is one that requires the authorisation or approval of the Autonomous Community, or in all other cases by a body of joint composition.

The procedure is the same for Annex II projects and projects affecting the Natura 2000 European Ecological Network except that the notice of intention to carry out the project must first be forwarded to the environmental body so that it can decide whether an environmental impact assessment is necessary.

As regards the **Strategic Environmental Assessment of Plans or Programmes**, according to Law 11/2006 the procedure is as follows:

- n Firstly, the promoting body shall draw up the requisite environmental sustainability report, for which it must first ask the environmental body to determine the scale, scope and level of detail thereof.
- n Once the report is complete, the promoting body must make the draft plan or programme and the environmental sustainability report available to the public and must invite enquiries from the public bodies and entities stipulated in the applicable substantive legislation, from the Public Administrations affected, and in any case from the environmental body.
- n On conclusion of the enquiry phase, the promoting body, in conjunction with the environmental body, shall draw up an environmental report in order to gauge the integration of environmental aspects in the proposal or programme. This report shall analyse the assessment process, the environmental sustainability report and its quality.
- n This environmental report shall be forwarded by the



promoting body to the environmental body, which shall have two months to give or withhold its approval.

- n The environmental body shall publish its decision on the environmental report in the Official Gazette of the Balearic Islands.

Finally, the procedure for granting of an **Integrated Environmental Authorisation** shall be the one provided in Law 16/2002, which we analysed in the part defining the procedure under the national legislation.

## TIME LIMIT FOR GRANTING

### INDUSTRY

The time limit for the granting of industrial authorisations required for the installation of electricity generation plants using renewable energy sources with voltages in excess of 15 kV, and for associated facilities, is that provided in Royal Decree 1955/2000, which is applicable pursuant to Decree 99/1997 (as set out in Decree 36/2003).

Hence, the time limits in respect of these plants shall be as follows:

- n Three months from submission of the application to decide on and notify the administrative authorisation.
- n Three months to approve the Final Design.
- n One month for the project commissioning certificate.

Decree 99/1997 provides that the time limit for granting of the authorisations necessary for the construction and commissioning of electricity generation plants of 15 kV or less shall be one month in the case of an Administrative Authorisation.

We should note in a general way that according to Law 3/2003 (Art. 50) the maximum time limit for the issuance and notification of decisions shall be as laid down in each regulation and, failing that, shall be 6 months.

### TOWN PLANNING

According to Law 10/1990, the time limit for the granting of **Building permits** is two months for large-scale works and one month for small-scale works.

If the time limit expires, the permit shall be assumed to be granted.

According to Law 6/1997, the time limit for the granting of general interest authorisations is three months from the date of commencement.

### ENVIRONMENT

Law 16/2006 lays down a number of time limits for the processing of Installation, opening and operating permits, as follows:

- n For the granting of an installation permit for large-scale permanent activities the time limit is three months from submission of the application. The time limit is four months where the local corporation is not competent to give an opinion on the activity.
- n For the granting of an installation permit for small-scale permanent activities the time limit is one month from submission of the application.
- n For the granting of an installation permit for harmless activities the time limit is one month from submission of the application.
- n The time limit is 15 days from presentation of the complete documentation for the granting of an Opening and Operating Permit.

In all these cases the absence of an express decision shall mean that the application is granted.

Law 11/2006 lays down a number of time limits for processing of **Statements of Environmental Impact and**

Administrative silence is equivalent to consent except in procedures relating to public subsidies or aids.

**Strategic Environmental Assessment of Plans and Programmes**, as follows:

- n The time limit for drawing up and notifying an impact statement is three months from the date of reception of the application and all the documentation in the registry of the body competent to process it.
- n In the event of disagreement between the decision-making body and the environmental body as to whether or not the project should be implemented or regarding the content of the impact statement, an enquiry phase shall commence, to which end two representatives shall be appointed from each body and allowed a maximum of one month to reach an agreement.
- n The environmental body shall decide whether or not the project requires an environmental impact statement within a maximum of two months from the date of reception of the notification, with all the appended documentation, in the registry of the body competent to process it. If no decision or notification is forthcoming within the said time limit, this will mean that the project requires an environmental impact assessment, although it may later be decided otherwise.
- n In Annex II projects and projects not included in Annex I that may affect areas belonging to the Natura 2000 European Ecological Network, the competent body shall ask the environmental body for an environmental report, which must be forthcoming within a maximum of one month from the date of entry of the application in the registry of the body competent to issue one.
- n For the purposes of strategic environmental assessment of Plans and Programmes, the Environmental Body shall issue an environmental sustainability report within two months. In addition, within a maximum of two months from the conclusion of the enquiry phase the promoting body must submit its environmental report to the environmental body, which

shall then have two months in which to state whether or not it finds it acceptable.

Finally, the environmental body must make its decision within a maximum of two months from the date of entry of the application and all the documentation in the registry of the body competent to issue it. If no decision or notification is forthcoming within the said time limit, this will mean that the plan or programme requires a strategic environmental assessment, although it may later be decided otherwise.

## FEES

### INDUSTRY

Article 405 of Law 11/1998 of 14 December 1998 laying down the Scale of Fees for the Balearic Islands, deals with the Fee for industrial and energy services and defines the commissioning and inspection of plants and the registration and monitoring of industrial establishments as taxable transactions.

This is a fixed-rate fee depending on the size of the implementation budget.

### TOWN PLANNING

Article 104 of Law 11/1998 of 14 December 1998 laying down the Scale of Fees for the Balearic Islands, which regulates the fee for preparation of reports and certificates in connection with town and country planning, defines as taxable events the issuance of technical reports or certificates in connection with town and country planning, including those issued by electronic, computerised or telematic means.

This is a fixed-rate fee.

We should further note that municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the local corporation where it is proposed to locate the plant.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

Finally, we should note that according to Law 6/1997, in

### ENVIRONMENT

Article 124 of Law 11/1998 of 14 December 1998, laying down the scale of Fees for the Balearic Islands, which regulates the Fee for preparation of environmental impact assessment reports, defines as taxable events the processing of environmental impact assessments, strategic environmental assessments and other environmental reports.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

the case of activities declared of general interest, use of the land shall be shared, in a proportion of 90% for the owner and the remaining 10% for the municipal authority. This municipal share must necessarily be acquired by the interested party.

## **SPECIFIC TRAINING FOR MANAGERS**

### **INDUSTRY**

In the case of low-voltage electrical installations, certain documents prepared by the authorised installer must be submitted.

Decree 57/2010 requires that the documentation for commissioning of thermal installations in buildings be submitted by the installation firms.

RD 2060/2008 approving the Regulation of pressure equipment, requires that the documentation submitted for commissioning be issued by an authorised installation firm.

### **TOWN PLANNING**

### **ENVIRONMENT**

# **AUTONOMOUS COMMUNITY LA RIOJA**

## AUTONOMOUS COMMUNITY OF LA RIOJA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of La Rioja the following normative provisions are in force, which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources.

- n **Decree 32/1998** of 30 April 1998 approving the Technical Standards for electrical installations for purposes of avifauna protection.
- n **Decree 48/1998** of 24 July 1998 regulating the procedure for authorisation of wind energy generation plants.
- n **Decree 25/2002** of 3 May 2002 establishing a moratorium on the planning of new wind farms in La Rioja.
- n **Decision of 24 June 2008** laying down supplementary rules for processing of applications for photovoltaic energy plants connected to the electricity grid.

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of La Rioja:

- n **Law 5/2006** of 2 May 2006 on Regulations governing Town and Country Planning in La Rioja.
- n **Special Plan for Protection of the Natural Environment in La Rioja.**
- n Any municipal by-laws that may have been introduced by local authorities where it is proposed to set up the activity.

#### ENVIRONMENT

Besides the national regulations, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of La Rioja:

- n **Law 5/2002** of 8 October 2002 on Protection of the Environment in La Rioja.
- n **Decree 62/2006** of 10 December 2006 approving the Regulation implementing Title I “Administrative Intervention” of Law 5/2002 of 8 October 2002 on Protection of the Environment In La Rioja.
- n **Territorial Planning Guidelines for the Construction of Mini-Hydroelectric Power Stations in La Rioja**, laying down environmental criteria to be taken into consideration for the construction of this kind of facility.

### REGULATORY COMPETENCES

#### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

#### TOWN PLANNING

Article 8(1)(16) of the Statute of Autonomy of La Rioja approved by Organic Law 3/1982 of 9 June 1982, as set out in Organic Law 2/1999 of 7 January 1999, confers exclusive competence on the **Autonomous Community of La Rioja** in respect of land use planning, town planning

#### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of protection of the environment.

Article 9(1)(a) of the Statute of Autonomy of La Rioja approved by Organic Law 3/1982 of 9 June 1982, as set out

Article 8(1)(18) of the Statute of Autonomy of La Rioja approved by Organic Law 3/1982 of 9 June 1982, as set out in Organic Law 2/1999 of 7 January 1999, confers exclusive competence on the **Autonomous Community of La Rioja** in respect of energy production, distribution and transmission plants where the transmission remains within the Community and its exploitation does not affect another Autonomous Community.

Article 9(2) of the Statute of Autonomy confers competence on the **Autonomous Community of La Rioja** for legislative and material implementation in matters of mining and energy regulation.

and housing.

in Organic Law 2/1999 of 7 January 1999, confers competence on the **Autonomous Community of La Rioja** for legislative and material implementation in matters of protection of the environment, the landscape, protected natural areas and ecosystems.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

The public information process regarding the Guideline for Non-Developable Land in La Rioja (a land use planning instrument subject to public information in the form of an announcement by the Regional Ministry of Tourism, Environment and Territorial Policy in the Official Gazette of La Rioja, number 38 of 29 March 2010) is currently in progress.

When that planning instrument is approved and published, it will repeal the Special Plan for Protection of the Natural Environment of La Rioja (hereafter PEPMAN)

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

Regarding electricity generation plants and associated facilities using renewable energy sources, we should note that at a regional level only the installation of wind energy production has been regulated, and therefore the national legislation is applicable by default to authorisation for the construction of such plants.

### TOWN PLANNING

For the construction of **electricity generation plants and connection facilities** the following planning authorisations will be required:

- n Building permit.
- n Authorisation for Installation of Uses and Activities on Non-Developable Land if the plant is to be sited on

### ENVIRONMENT

For the construction of **electricity generation plants and connection facilities** the following environmental authorisations are required:

- n **Environmental Impact Statement**, in the cases listed in Annex I. of Decree 62/2006 and Legislative Royal Decree 1/2008 of 11 January 2008 Approving the

The applicable legislation includes in particular RD 1955/2000 and RD 661/2007, according to which these kinds of plants require the following authorisations:

- n Administrative authorisation of the draft project.
- n Approval of the final design.
- n Authorisation for commissioning.

Also, in the case of special scheme plants, the following shall be required:

- n Recognition of status as a special scheme plant.
- n Filing at the registry of special scheme generation plants.

According to Decree 48/1998, authorisation of **plants producing electricity from wind energy** located within the territorial limits of the Autonomous Community of La Rioja whose operation does not affect any other Autonomous Community (according to Article 111 of RD 1955/2000, a plant is deemed not to affect another Autonomous Community if there is no obligation to make an economic offer to the market operator) shall require the following authorisations:

- n **Administrative Authorisation**, referring to the basic project for the plant.
- n **Start-up permit**, whereby plants can be powered up and commence commercial operation once the project is completed.

Such plants shall also require recognition of their status as special scheme plants and filing at the appropriate registry in cases where the plant belongs to the special scheme.

Low-voltage electricity generation plants are regulated by Royal Decree 842/2002, whereunder an authorisation is not required for their construction, only for commissioning.

Finally, in the case of **thermal energy generation plants**

that kind of land.

The requirement to obtain this authorisation does not exempt the applicant from having to obtain the requisite planning permit.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n Any other authorisations required for the installation of use on non-developable land, depending on the characteristics of the plant and its location on non-developable land.

Consolidated Text of the Projects (Environmental Impact Assessment) Act.

This authorisation shall also be required in the cases listed in Annex II, and likewise in the case of any other project not included in Annex I of the above decrees that could directly or indirectly affect areas belonging to the Natura 2000 European Ecological Network, in either case when the environmental body gives reasons for so requiring.

Annex I of the above-cited decrees includes the following plants:

- Thermal power stations and other combustion plants with a heat output of at least 300 MW.
- Industrial plants for the production of electricity, steam and hot water (projects not included in Annex I) with a heat output exceeding 300 MW.
- Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
- Plants utilising wind power to produce energy (wind farms) with 50 or more wind turbines or situated less than 2 km distant from another wind farm.

Annex I also includes plants of the following kinds built in areas classified as especially sensitive pursuant to Council Directive 79/409/EEC and Council Directive 92/43/EEC:

- Wind farms with more than 10 wind turbines.
- Plants for hydroelectric energy production.
- Overhead power lines longer than 3 kilometres.

Annex II of the above-cited decrees includes the following plants:



(heating and/or cooling), we should note that the rules applying to this kind of plant (either where the energy produced is intended for industrial use or else where it is intended to supply services in buildings) do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

- Wind farms not included in Annex I.
- Industrial plants for the production of electricity, steam and hot water (projects not included in Annex I) with a heat output exceeding 100 MW.
- Hydroelectric generation plants (where none of the works comprising the plant so require according to Annex I).
- Industrial plants for transmission of electricity by overhead cables (projects not included in Annex I) more than 3 km long.

n **Integrated Environmental Authorisation**, where required by Decree 62/2006 and Law 16/2002.

In particular, the activities subject to this requirement include combustion plants with a heat output of more than 50 MW having the following characteristics:

- Ordinary or special scheme electricity generation plants that burn fossil, waste or biomass fuels.
- Co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by the undertaking, whether or not that is its principal activity.

n **Environmental permit**, necessary in cases where no Environmental Impact Statement or Integrated Environmental Authorisation is required for the activity but it could be harmful to the environment and be unpleasant or pose risks to persons and property.

This kind of authorisation is required for hydraulic, solar thermal or other kinds of energy production for which an Environmental Impact Statement or Integrated Environmental Authorisation is not required.

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources require the authorisations mentioned above if the industrial use for which the thermal

energy is produced or the characteristics of the plant so dictate.

According to Annex I of Law 16/2002, an integrated environmental authorisation is required for combustion plants with a heat output of more than 50 MW (co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by the undertaking, whether or not that is its principal activity.).

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Decree 48/1998 the authority competent to grant the industrial authorisations required for the construction of electricity generation plants using wind energy is the Directorate-General of Labour, Industry and Trade.

In this connection, according to Article 5(2)(3)(v) of Decree 34/2009 laying down the organisational structure and the functions of the Regional Ministry of Industry, Innovation and Employment implementing the Public Sector (Organisation) Act, Autonomous Community of La Rioja Law 3/2003 of 3 March 2003, the cited Directorate-General is the department competent to *“authorise plants for the production, distribution, processing and transmission of any kinds of energy for exploitation within the territorial limits of the Autonomous Community”*.

Also, the Directorate-General of Labour, Industry and Trade is the department competent to authorise filing at the Registry of Special Scheme Plants.

### TOWN PLANNING

The authority competent to grant a building permit is the **Local Corporation** of the municipality where the plant is to be sited.

The competent authority in respect of Installation of Uses and Activities on Non-Developable Land is the **Town and Country Planning Commission of La Rioja**.

### ENVIRONMENT

The authority competent to grant the Environmental Impact Statement and the Integrated Environmental Authorisation is the relevant environmental body of the Autonomous Community of La Rioja.

Granting of the environmental permit is the responsibility of the Local Corporations.

## INFORMATION MEASURES

### INDUSTRY

According to the national legislation applicable by default, which is Royal Decree 1955/2000, any application for

### TOWN PLANNING

The planning legislation makes no provision for information measures during the processing of the building permit and

### ENVIRONMENT

According to Articles 25 and subsequent of Decree 62/2006, the **Environmental Impact Study** is to be publicised for not

administrative authorisation of electricity generation plants must be publicised for 20 days, in this case by means of an announcement in the Official Gazette of La Rioja and also in one of the largest-circulation daily newspapers of the region.

The authorising decision must likewise be published in the Official Gazette of La Rioja and must also be forwarded to the various authorities, bodies, or public service or general interest undertakings as the case may be, which intervened or could have intervened in the process.

We should also note that the procedure laid down in Decree 48/1998 for granting of the authorisations necessary for the construction and commissioning of electricity generation plants using wind power requires that applications for Administrative Authorisation of projects be published in the Official Gazette of La Rioja for fifteen days to allow interested parties to make any submissions that they deem appropriate and seek information about the plant it is proposed to construct.

In addition, the Decree provides that the plant project submitted by the competing applicants must likewise be published for a period of twenty days in the form of an announcement in the Official Gazette of La Rioja.

first use and occupation permit.

The same does not apply to authorisation to carry on the activity; according to Article 53 of Law 5/2006, once the file is received by the Town and Country Planning Commission it is to be publicised in the form of an announcement in the Official Gazette of the La Rioja for twenty days.

less than 30 days.

In addition, the issuance of the Environmental Impact Statement is to be expressly publicised (Article 28).

Also, according to Article 43 of Decree 62/2006, the **Integrated Environmental Authorisation** is to be publicised for not less than thirty days.

In addition, once a decision is made, it is to be notified to the authorities that reported on the application and to the interested parties and is to be published in the Official Gazette of La Rioja.

At the same time as the public information procedure, and with the same time limit, the environmental body must arrange a hearing for the immediate neighbours of the proposed site of the activity so that they can make such submissions as they may deem appropriate.

According to Article 57 of Decree 62/2006, the **environmental permit** is to be publicised for 20 days in the form an announcement in the Official Gazette of La Rioja and on the Notice Board of the Local Corporation.

## INTER-ADMINISTRATION COORDINATION

INDUSTRY

TOWN PLANNING

ENVIRONMENT

The procedure for special scheme power generation plants has the same systems of coordination as in the State regulations described, since these are applicable by default.

For instance, in order to process the administrative authorisation, the competent authority must inform the different authorities, bodies, or where applicable public service or general interest undertakings, of any part of the plant that could affect property or rights for which they are responsible.

Moreover, should it prove necessary to conduct an environmental impact assessment of the plant, this is to be done in conjunction with the public information procedure for the administrative authorisation of the plant. In such cases an Environmental Impact Statement must be forthcoming before the Administrative Authorisation is granted.

the procedure for authorisation of wind plants laid down in **Decree 48/1998** provides that the relevant activity and planning permits must necessarily be obtained during processing of approval of the project by the department of industry.

This Decree further provides that at the same time as the public information procedure commences, the authority competent to process the industrial authorisations must request a report from the Local Corporations affected and from the regional ministries with competences in respect of Agriculture, the Environment and Land Use Planning, who will have twenty days in which to state whether they have any objections to the authorisation applied for (Article 7(1)).

It also provides that they may request any other reports that they deem appropriate.

Furthermore, offprints of the project are to be supplied for remittal to other Public Authorities, Bodies, Corporations or Ministries of the Government of La Rioja for them to state

In the procedure for processing of building permits, Law 5/2006 provides in a general way that the Local Corporation shall petition sectoral bodies for such reports as are necessary according to the nature of the plant.

Also, according to Article 78 of the Special Plan for Protection of the Natural Environment of La Rioja (PEPNAM), where a plant is to be located in any of the areas regulated by the Plan, before a building permit is issued the Local Corporation where the activity is to be located is entitled to submit it to the Town and Country Planning Commission of La Rioja for the latter to judge whether it is in compliance with the rules laid down in the said PEPMAN and with the planning legislation.

Where necessary, without prejudice to the terms of the sectoral legislation, the Local Corporation where the activity is to be sited may request reports from sectoral bodies that it judges will be affected, which will have ten days in which to issue such reports.

The procedure for granting of the Authorisation for Installation of Uses and Activities on Non-Developable Land laid down in Law 5/2006 is initiated with the Local Corporation where the plant is to be located, which shall issue a report on the activity and forward it to the Town and Country Planning Commission of La Rioja for a decision on authorisation.

It is further provided that where such authorisation is required, the Local Corporation may not grant a building permit unless that authorisation has been obtained.

We should note in a general way that according to Decree 62/2006, where any of the environmental authorisations mentioned here are necessary, they shall be an absolute requirement for any of the authorisations and permits needed for execution or commissioning of the project.

Decree 62/2006 provides that during the processing of the Environmental Impact Study, a report must be requested from the municipality or municipalities where the plant is to be located.

The request for an Environmental Impact Study is submitted to the decision-making body competent to approve or authorise the project concerned, which then forwards the request to the environmental body. The latter body is likewise informed of the issuance of the Environmental Impact Statement.

It is further provided that the authorities affected by the action are to be informed of the authorisation during the public information phase.

In the case of the Integrated Environmental Authorisation, Article 41 of Decree 62/2006 provides that the application therefor must include a report from the Local Corporation where the plant is to be located certifying that the project is in compliance with the town planning, or a copy showing that one has been requested if the Corporation has not reported within 30 calendar days of submission of the application.

Also, once the public information and hearing phase is concluded, the environmental body has 10 days in which to send a copy of the file, along with the submissions received, to the bodies whose opinion is required on matters of their competence, and to the Local Corporation where the plant is to be located, following which they shall have 30 days to issue a report.

If an environmental assessment is also required for the plant, the Integrated Environmental Authorisation must include the Environmental Impact Statement.

any conditions that that they deem appropriate.

According to Article 3 of Decree 32/1998, in the case of **high-voltage overhead cables** running over non-developable or industrial urban land a copy of the final design is to be forwarded to the Directorate-General of the Natural Environment for the latter to issue a mandatory report on it.

The procedure for granting of this Integrated Environmental Authorisation takes the place of the procedure for granting a permit for a classified activity except for the decision by the Local Corporation.

Finally, according to Decree 62/2006, at the same time as the public information phase, the environmental permit is subject to reports from the bodies competent in matters of fire prevention, health protection, waste production and disposal, atmosphere and land, which must be forthcoming within 30 days from the day following submission of the application.

Article 54 of the above Decree expressly provides that the environmental permit must be granted before the planning permits that will be required for the construction or installation of the activity, although the public information and hearing procedures may be conducted simultaneously.

Notwithstanding the foregoing, in the event that the requisite authorisations have not been obtained first or have not been applied for beforehand, they may be processed at the same time as the environmental permit.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

The procedure for processing of authorisations required for the construction and commissioning of generation plants is as set out in the national legislation, and therefore we referred to the analysis carried out in connection therewith to determine the procedure that would be followed in the Community of La Rioja.

One of the particular aspects of this general scheme is that according to Decree 32/1998, the procedure for authorisation of **high-voltage overhead cables** running over non-developable or urban industrial land includes the

### TOWN PLANNING

The applicable regulations make no provision for a specific procedure to suit the nature of the plant it is proposed to build, the technology used or its capacity; the procedure for obtaining these authorisations is the general one laid down in the said regulations.

The procedure for obtaining a building permit is regulated in a general way in Law 5/2006 and in the PEPNAM and comprises the following steps:

- n It is initiated when the interested party makes an application (accompanied by the documentation

### ENVIRONMENT

The applicable legislation makes no provision for a specific procedure to suit the nature of the plant it is proposed to build, the technology used or its capacity; the procedure for obtaining these authorisations is the general one laid down in the said regulations.

The procedure for obtaining an **Environmental Impact Statement** is regulated in Articles 25 to 29 of Decree 62/2006, and consists of the following steps:

- n Preliminary enquiries to determine whether the project ought to be the subject of an Environmental Impact

following special rules:

- n The authorisation procedure is initiated when the owner of the plant submits a copy of the final design to the Directorate-General of Industry, Tourism and Labour for forwarding to the Directorate General of the Natural Environment, which must issue a binding report within 30 days.
- n Notwithstanding the above provision, the owner of the plant may request that report directly from the Directorate General of the Natural Environment during the draft project phase; then, if it is favourable, it can be submitted along with the final design that has to accompany the application for administrative authorisation.

The procedure regulated in Decree 48/1988 for the installation of **Wind Farms** consists of the following steps:

- n It is initiated when the interested party (a public or private entity interested in installing and operating a Wind Farm) submits an application to the Directorate-General of Industry, Labour and Trade, accompanied by the documentation listed in Article 4 of Decree 48/1988.
- n In accordance with Article 17 of the cited Decree, along with the application, a request may be made for a public utility declaration, to which end it must be accompanied by a specific, individualised list of the property and rights that the applicant considers will need to be expropriated.
- n The application for administrative authorisation is to be published in the Official Gazette of La Rioja, and a period of 15 days is allowed in which to submit competing applications.
- n Upon expiry of the above time limit, the applicant(s) have fifteen days in which to submit the

required under Articles 194 and 195 of Law 5/2006).

- n Once the application is submitted, the Local Corporation passes it on to the other authorities affected for them to report on the aspects for which they are competent.
- n The Local Corporation may also report on the activity to the Town and Country Planning Commission of La Rioja for it to judge whether it is in compliance with the rules laid down in the said PEPMAN and with planning law where the plant is to be located at a site coming under the Plan.
- n The necessary legal and technical reports are issued.
- n The Local Corporation delivers a decision.

However, for exact details of the procedure, it is necessary to examine the regulations laid down in the municipal by-laws.

The procedure for granting of the Authorisation for Installation of Uses and Activities on Non-Developable Land is regulated in a general way in Article 53 of Law 5/2006 and consists of the following steps:

- n It is initiated when the interested party submits an application to the Local Corporation within whose municipal limits it is proposed to set up the activity.
- n The Local Corporation must add its own report to the file and forward the whole to the Town and Country Planning Commission of La Rioja.
- n If at the end of two months following the interested party's application to the Local Corporation the latter has not forwarded it to the Town and Country Planning Commission of La Rioja, the applicant may re-apply directly to the latter.
- n When the Commission has received the file, it must publicise it for a period of twenty days.

Study, and if so the content of that study.

- n Once it is decided that an Environmental Impact Study is required and what it should consist of, the developer must submit such an Environmental Impact Study to the decision-making body responsible for authorising the project concerned.
- n This study will be made public and the appropriate reports requested by the decision-making body if the project concerned is subject to a public information requirement.
- n Once these steps are completed, the file is sent to the environmental body for it to issue the requisite Environmental Impact Statement.

The procedure for granting an **Environmental Impact Statement** is regulated in Articles 41 to 48 of Decree 62/2006, and consists of the following steps:

- n Application addressed to the Director-General of Environmental Quality, the environmental body of the Community of La Rioja.
- n Public information and hearings on the application.
- n Upon conclusion of the above step, the environmental body must forward it to the bodies required to give an opinion on the aspects falling within their purviews, and to the Local Corporation where the plant is to be located, for them to report.
- n Preparation of a draft decision, which must explain the issuances raised by the reports received.
- n The developer shall be given a hearing regarding this draft decision and the reports received, where he can make any submissions that he deems appropriate.
- n In the event of disagreement the submissions are passed on to the bodies that issued the reports,

- documentation listed in Article 6 of Decree 48/1998 to the Directorate-General cited.
- n All projects that are submitted will be publicised for a period of twenty days in the Official Gazette of La Rioja.
  - n At the same time as the public information procedure commences, the authority competent to process the industrial authorisations must request a report from the Local Corporations affected and from the regional ministries with competences in respect of Agriculture, the Environment and Land Use Planning, who will have twenty days in which to state whether or not they have any objections to the authorisation applied for.
  - n Along with the above reports, they may also request any other report that they deem appropriate from any other ministry of the Government of La Rioja.
  - n Once the public information phase has concluded and any reports or submissions and the requisite activity and planning permits have been received, the body processing the application shall have 20 days in which to issue a report on compliance with the regulations for industrial and electrical plants and on the submissions and reports received.
  - n Once the above report is forthcoming, the Director-General of Industry, Labour and Trade has 15 days in which to issue a reasoned decision granting or refusing authorisation.
  - n If more than one application for authorisation is submitted within the same area, they shall be compared and the authorisation granted to the one that best matches regional interests, i.e. the one that assures, technically speaking, the best balance between energy production and a favourable socio-economic impact on the area and the Autonomous
- n The final decision is made by the Town and Country Planning Commission of La Rioja.
- canvassing their response.
- n Finally, the Administration issues a decision granting or refusing the Integrated Environmental Authorisation.
- The procedure for obtaining an **Environmental permit** is regulated in Articles 55 to 59 of Decree 62/2006, and consists of the following steps:
- n The developer submits an application to the Local Corporation (addressed to the Mayor).
  - n Upon examining the application the Local Corporation decides either to reject it or process it.
  - n If the application for a permit complies with the requirements for processing, it is made public and interested parties are invited to make submissions.
  - n At the same time as the above step, a report is requested from the bodies competent in matters of fire prevention, health protection, waste production and disposal, atmosphere and land.
  - n The completion of the foregoing steps concludes the procedure and an environmental permit is either granted or refused. The decision is notified to the applicant, the environmental body of the Autonomous Community of La Rioja and any bodies that issued mandatory reports.

Community as a whole.

Having said that, as noted earlier the regional legislation only regulates the administrative authorisation process and not the subsequent approval of the final design and start-up permit (the regional statute only regulates the time limit for the granting of that permit, which is 6 months following the time limit for execution of the project), the granting of which is regulated by the national legislation.

Decree 48/1998 also regulates the procedure for the processing of isolated wind plants (meaning plants consisting of no more than 3 wind turbines with a power output of 5 MW or less intended for research and development of wind power technology. In this case the procedure is the same as for Wind Farms, with the following particularities:

- n The application for authorisation does not have to be published in the Official Gazette of La Rioja.
- n No competing applications may be submitted.
- n As regards the documentation to be furnished, a Technical and Economic Feasibility Study is not necessary, but a memorandum must be submitted explaining the purpose of the innovation and development.

Finally, we should note that the regional legislation has regulated the procedure for granting of the status of a Special Scheme plant and filing thereof at the appropriate Registry, to which the national rules apply.

And lastly, we should note that the Autonomous Community has not regulated the commissioning of low-voltage electrical installations or thermal installations, and therefore the national regulations apply as explained earlier.

## TIME LIMIT FOR GRANTING



## INDUSTRY

The time limit for granting of the industrial authorisations required for the installation of electricity generation plants using renewable energy sources and associated facilities is that provided in Royal Decree 1955/2000, analysed earlier, which is applicable by default (3 months from the date of submission of the application to issue and notify a decision. The same time limit for approval of the Final Design, and 1 month for the start-up permit).

According to **Decree 48/1998**, the time limit for the procedure for authorisation of wind plants regulated therein is six months from the date of entry of the application in the registry of the competent body.

If no decision is issued in the given time, the application shall be considered denied.

## TOWN PLANNING

According to Law 5/2006, the time limit for granting of a building permit is three months from the date of application.

Administrative silence shall be interpreted as approval in accordance with the legislation on common administrative procedure (Article 195(3)).

According to Article 53 of Law 5/2006, the time limit for granting of administrative authorisation to carry on the activity is three months from the date of application for authorisation to the Town and Country Planning Commission.

If no express decision is forthcoming within that time limit, the application is deemed to be granted by administrative silence, provided that the public information procedure is shown to have been completed.

## ENVIRONMENT

The environmental body of the Autonomous Community of La Rioja has 6 months in which to issue the **Environmental Impact Statement**, from the date the date of entry of the application in its registry.

If no decision is forthcoming within the maximum time limit established by law, the decision-making body may assume that the Environmental Impact Statement is denied.

The time limit for granting of an **Integrated Environmental Authorisation** is 10 months from the date of submission of the application therefor.

If no express decision is notified in the given time, the application is deemed to be denied.

The time limit for granting of an **environmental permit** for the classified activity is four months from the date of submission of the application.

If no express decision is forthcoming within that time and there has been no freezing of the procedure for reasons attributable to the applicant or any extension of the time limit, the application shall be deemed to be denied.

## FEES

### INDUSTRY

Fees in respect of industrial matters are regulated in the Public Fees and Prices Act, Autonomous Community of La Rioja Law 6/2002 of 18 October 2002.

The fees regulated therein include the industry and energy fee, in respect of which the taxable event is the provision of a number of services by the Regional Ministry of Industry, Innovation and Employment, including authorisation for the operation, registration and commissioning of the following plants:

- New industrial plants, enlargements, alterations and

### TOWN PLANNING

Fees in respect of planning matters are regulated in the Public Fees and Prices Act, Autonomous Community of La Rioja Law 6/2002 of 18 October 2002.

The fees regulated therein include the planning fee, in respect of which the taxable event is the processing of files and reports compiled by the Town and Country Planning Commission on non-developable land.

The rates charged for the fee shall be as follows:

- Structures and uses on non-developable land:

### ENVIRONMENT

We should note that fees in respect of environmental matters are regulated in Article 33 of the Economic Planning Act, Law 6/2009 of 15 December 2009 amending the environmental fee provided in the Public Fees and Prices Act, Autonomous Community of La Rioja Law 6/2002 of 18 October 2002.

The fees regulated therein include the environmental fee, in respect of which the taxable event is the issuance of the following authorisations:

- Integrated environmental authorisation.

- transfers.
- n Electricity generation stations, power lines, substations and transformer stations.
  - n Electrical, water and fuel installations in commercial, industrial and special buildings.
  - n Pressurised devices.
  - n General electrical, water and fuel installations in buildings chiefly comprising dwellings.
  - n Cooling plants.
  - n Heating, air conditioning and hot water installations.
- The base for determining the quota shall be the budget for machinery and equipment.

€ 93.06.

- n Consultations on non-developable land: € 82.91.

Notwithstanding the foregoing, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

One must therefore look to the regulations contained in the by-laws of each municipality.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

- n Environmental impact assessment of projects and activities.

- n Environmental reports.

The amount varies according to the cost of the Final Design, ranging from € 671.05 to € 3,268.16 for the integrated environmental authorisation; from € 305.18 to € 1,286 for the environmental impact assessment; and from € 124.29 to € 196.43 for environmental reports.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

According to RD 1027/2007 approving the Regulation for Thermal installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation for pressurised equipment and supplementary thermal instructions and RD 842/2002 approving the Regulation for Low-Voltage Electrical Installations both require that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is required from the Administration.

### TOWN PLANNING

### ENVIRONMENT

# **AUTONOMOUS COMMUNITY OF MADRID**

## AUTONOMOUS COMMUNITY OF MADRID

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of Madrid the following regulatory provisions are in force, which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources.

- n **Decree 111/1994** of 3 November 1994 regulating Industrial Inspection and Control Entities and assigning them functions for verification of compliance with safety regulations and requirements in industrial plants in case of a significant risk to persons, animals, property or the environment.
- n **Decree 142/1998** of 30 July 1998 creating an Official Registry of electricity generation Plants and an Official Registry of Distributors, Marketers and Qualified Consumers.
- n **Decree 253/2001** of 8 November 2001 unifying procedures in connection with filing at Registries of Undertakings engaging in Regulated Industrial Activities.
- n **Decree 38/2002** of 28 February 2002 regulating official control activities in respect of industrial installations in the Community of Madrid.
- n [Legislative Decree 1/2002 of 24 October 2002](#) approving the Consolidated Text of Public Fees and Prices in the Community of Madrid.

#### TOWN PLANNING

The following principal regulatory provisions shall be applicable within the territorial limits of Madrid:

- n **Law 9/1995** of 28 March on Town and Country Planning Measures in Madrid 1995.
- n **Decree 131/1997** of 16 October 1997 laying down the requirements to be met by urban development actions in relation to electrical infrastructures.
- n Land Act, **Law 9/2001** of 17 July 2001.

#### ENVIRONMENT

Besides the national regulations, the following principal regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of Madrid:

- n Environmental Assessment Act, **Autonomous Community of Madrid Law 2/2002** of 19 June 2002.

- n **Order 9343/2005** of the Regional Minister of Economy and Technological Innovation of 1 October 2005 laying down the procedure for processing, commissioning and inspection of non-industrial electrical plants connected to a low-voltage power supply.
- n **Order 9344/2005** of the Regional Minister of Economy and Technological Innovation of 1 October 2005 laying down the procedure for processing, commissioning and inspection of non-industrial electrical plants connected to a low-voltage power supply.
- n **Instruction of the Director-General of Industry, Energy and Mines of 25 October 2005** on criteria applicable to the legalisation and filing of solar farms at the special scheme registry.
- n **Law 2/2007** of 27 March 2007 regulating guarantee of the electricity supply in the Community of Madrid.
- n **Order 688/2008** of the Regional Ministry of Economy and Consumer Affairs of 29 February 2008 amending Regional Ministry of Economy and Technological Innovation Order 9343/2003 of 1 October 2003 laying down the procedure for registration, commissioning and inspection of non-industrial thermal installations in buildings pursuant to Decree 38/2002 of 28 February 2002 (BOCM 18 March 2008).
- n **Decree 19/2008** of 13 March 2008 implementing Law 2/2007 of 27 March 2007 regulating guarantee of the electricity supply in the Community of Madrid.
- n **Order of 17 February 2009** standardising and simplifying the procedure for action by Industrial Inspection and Control Entities pursuant to Decree 38/2002 regulating official control activities in respect of industrial installations in the Community of Madrid

and implementing Orders.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 26(1)(11) of the Statute of Autonomy of Madrid approved by Organic Law 3/1983 of 25 February 1983 confers exclusive competence on the **Community of Madrid** in respect of energy production, distribution and transmission plants where the transmission remains within the Community and its exploitation does not affect another Autonomous Community.

Article 27(8) of Organic Law 3/1983 confers on the Autonomous Community of Madrid competence to enact implementing legislation to regulate mining and energy.

### TOWN PLANNING

Article 26(1)(4) of the Statute of Autonomy of Madrid approved by Organic Law 3/1983 of 25 February 1983 confers exclusive competences on the **Autonomous Community of Madrid** in respect of land use planning, town planning and housing.

In the exercise of that competence the Community of Madrid shall have legislative, regulatory and executive powers, which it shall use at all times with due respect for the terms of the Spanish Constitution.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 27(7) of the Statute of Autonomy of Madrid, approved by Organic Law 3/1983 of 25 February 1983, confers on the **Community of Madrid** competences in respect of implementing legislation and regulatory and executive powers in matters of environmental protection, without prejudice to the power of the Community of Madrid to introduce additional regulations on protection, biotic and abiotic pollution and waste discharges within the territorial limits of the Community of Madrid.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

As regards electricity generation plants using renewable energy sources and associated facilities, we should note that the Community of Madrid has not implemented legislation to regulate the necessary industrial authorisations for installation of such plants.

The national legislation is therefore applicable in this Autonomous Community by default, as noted (i.e. Law 54/1997, Royal Decree 1955/2000 and Royal Decree 661/2007).

According to this legislation, the establishment of such plants requires the following authorisations:

- n Recognition of Special Scheme status in the case of plants having an output of less than 50 MW.
- n Administrative authorisation of the draft project.
- n Approval of the final design.
- n Authorisation to operate
- n Filing at the Registry of Special Scheme Electricity Generation Plants.

In the case of photovoltaic energy plants, the rules for the establishment of Solar Farms (groups of two or more individual installations having two or more owners, each comprising one or more solar panels and the necessary electricity generation equipment) are as follows:

- n Solar farms with a total rated output of less than 100 kW may be connected to LV grids subject to the rules laid down in Royal Decree 1663/2000 on connection of photovoltaic installations to the low-voltage grid and in the Low-Voltage Electro-technical Regulation, implemented at regional level by Order 9344/2005,

### TOWN PLANNING

For the construction of plants for generation of electricity using renewable energy sources and associated facilities the following planning authorisations will be required:

- n Building permit.
- n Planning Classification if located on Unzoned Developable Land (Art. 26(1)(c) Law 9/2001).
- n Use and Activities Permit.
- n First use permit.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following authorisations, depending on the planning impact of the proposed plant.

### ENVIRONMENT

For the construction of plants for generation of electricity using renewable energy sources and associated facilities the following environmental authorisations will be required:

- n **Ordinary Environmental Impact Statement**, in the case of projects and activities listed in Annexes II and III of Law 2/2202.

Annex II includes the following combustion plants for these purposes:

- Thermal power stations and other combustion plants for generating electricity, steam or hot water with a thermal output of 300 MW or more.
- Plants for hydroelectric energy production.
- Plants for the harnessing of wind power for energy production (wind farms) having any of the following characteristics:
  - Comprising 10 or more wind turbines.
  - The overall height of any of the wind turbines is 15 metres or more.
  - Less than 2 kilometres from another wind farm.
  - Located in areas included in Annex six.
- Photovoltaic electricity generation plants located outside urban areas whose panels cover an area of more than 5 000 square metres.
- Construction of overhead power lines which are 10 kilometres or more in length or which are longer than 3 kilometres and traverse areas included in

as set out in Order 688/2008, with which they must comply for registration, commissioning and inspection.

- n All other solar farms are to be connected to High-Voltage grids, and authorisations are to be processed as a single plant considering their total output, subject to the default procedure laid down in Royal Decree 1955/2000.

However, energy generation plants connected to a low-voltage grid do not require authorisation prior to their construction, although certain documentation must be submitted for start-up.

In the case of **thermal energy generation plants** (heating or cooling) we should note that according to RD 1027/2007 approving the Regulation for Thermal Installations in Buildings and RD 2060/2008 approving the Regulation for Pressurised Equipment, and to Order 9343/2003 and the Order of 17 February 2009, prior authorisation is not required for construction but certain documentation is required for start-up.

We should note however that this documentation is not in fact required prior to commissioning in the case of thermal installations whose rated thermal output is less than 5 kW, hot water installations using instantaneous heaters, accumulation heaters or immersion heaters where the rated thermal output of each separately or their sum is 70 kW or less, and solar systems consisting of a single prefabricated element.

Annex six.

Annex III includes the following combustion plants for these purposes:

- Thermal power stations and industrial combustion plants for generating electricity, steam or hot water with a heat output of 300 MW or less and more than 50 MW.
- Plants for the harnessing of wind power for energy production (wind farms) not included in [Annex two](#) comprising 10 or more wind turbines.

- n **Integrated Environmental Authorisation**, in cases listed in Annex I of the Pollution (Integrated Prevention and Control) Act, National Law 16/2002.

For these purposes Annex I includes the following combustion plants with thermal output greater than 50 MW:

- Ordinary or special scheme electricity generation plants that burn fossil, waste or biomass fuels.
- Co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by an undertaking, whether or not that is its principal activity.

- n **Environmental Report on Activities**, in the case of projects and activities listed in Annex V of the Act.

Finally, we should note that according to the Act the environmental body of the Community of Madrid shall decide on a case-by-case basis whether or not projects or activities cited in Annex IV are to be subject to an environmental procedure. These are as follows:

- n Industrial combustion plants for generating electricity, steam or hot water with a thermal output of 50 MW or less and more than 5 MW.
- n Overhead power lines not included in [Annex two](#)



whose length is 1 kilometre or more.

- n Photovoltaic electricity generation plants located outside urban areas which are not intended for self-consumption and are not included in other annexes.
- n Electricity transformer substations.

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Law 54/1997, industrial authorisations required for the construction of electricity generation plants using renewable energy sources and associated facilities are to be granted by the body competent in energy matters in the Community of Madrid, that is the Directorate-General of Industry, Energy and Mines.

According to Decree 142/1998, the Directorate-General of Industry, Energy and Mines is also the body competent to file electricity generation plants at the Registry of Special Scheme Generation Plants.

However, according to Decree 38/2002, in the case of Low-Voltage industrial installations and industrial thermal installations, the bodies responsible for verifying compliance with the safety regulations and requirements at plants are the Industrial Inspection and Control Entities (Sp. acronym EICI) recognised by the Administration pursuant to Decree 111/1994.

According to Orders 9343/2003 and 9344/2003, in the case of Low-Voltage non-industrial installations and non-industrial thermal installations, the bodies responsible for

### TOWN PLANNING

The Administration competent to grant building permits, use and activity permits and first use permits is the **Local Corporation** where the plant is to be sited; this applies to electricity generation plants, thermal energy generation plants and associated facilities.

According to Article 148 of Law 9/2001 the Administration competent to award the Planning Classification is:

- n The Regional Minister with competence in matters of town planning in the case of projects on protected non-developable land (Article 29(1)).
- n The Madrid Planning Commission in all other cases.

### ENVIRONMENT

The authority competent to grant the Environmental Impact Statement and the Integrated Environmental Authorisation is the Regional Ministry of the Community of Madrid competent in matters of environmental protection.

Granting of the Environmental Report on Activities is the responsibility of Local Corporations.

verifying compliance with the safety regulations and requirements at plants are likewise the Industrial Inspection and Control Entities (EICI).

## INFORMATION MEASURES

### INDUSTRY

According to Royal Decree 1955/2000, the default national instrument, an extract of the authorisation application must be publicised for 20 days in the Official Gazette of the Province of Madrid or the Official Journal of the Community of Madrid, and also in one of the largest-circulation dailies in Madrid.

The authorising decision must likewise be published in the Official Journal of Madrid and must further be forwarded to the various authorities, bodies, or public service or general interest undertakings as the case may be, which intervened or could have intervened in the process.

### TOWN PLANNING

According to Law 9/2001, the processing of authorisations required for the implementation of such projects on unzoned developable land is subject to the public information requirement.

The application for Planning Classification must therefore be publicised for one month.

### ENVIRONMENT

Law 2/2002 provides that the **Environmental Impact Study** must be publicised in the Official Gazette of the Community of Madrid and on the bulletin boards of the Local Corporations affected, along with the substantive project, or else on its own where the latter is not mandatory for processing of the substantive project.

The public information period shall be 30 days for activities listed in Annex II which require ordinary processing of the Integrated Environmental Assessment and 20 days for Annex III activities requiring the abbreviated procedure.

It is further expressly provided that the Environmental Impact Statement that is issued must be published in the Official Gazette of the Community of Madrid.

According to Article 45 of Law 2/2002, the application for an Environmental Report on Activities must also be publicised in the form of an announcement in the Official Gazette of the Community of Madrid and on the bulletin boards of the Local Corporations affected for a period of twenty days, and that all interested parties in the neighbourhood be notified personally so that they can make representations.

Also, according to Article 16 of Law 16/2002, the **Integrated Environmental Authorisation** is to be publicised for not less than thirty days. In addition, once a decision is made, it is to be notified to the authorities that reported on the application and to the interested parties.

## INTER-ADMINISTRATION COORDINATION

## INDUSTRY

The procedure for special scheme power generation plants has the same systems of coordination as in the State regulations described, since these are applicable by default.

Among other requirements, in order to process the administrative authorisation, the competent authority must inform the different authorities, bodies, or where applicable public service or general interest undertakings, of any part of the plant that could affect property or rights for which they are responsible.

Moreover, should it prove necessary to conduct an environmental impact assessment of the plant, this is to be done in conjunction with the public information procedure for the administrative authorisation of the plant. In such cases an Environmental Impact Statement must be forthcoming before the Administrative Authorisation is granted.

According to Decree 142/1998 regulating the procedure for filing at Registries of electricity generation plants in the Community of Madrid, after registering the plant, the Directorate-General of Industry, Energy and Mines shall send a copy of the registration to the Directorate General of Energy at the Ministry of Industry and Energy.

Also, the actions of EICIs are to be controlled by the Directorate-General of Industry, Energy and Mines pursuant to Article 3 of Decree 111/1994. To that end the EICIs must annually submit a Memorandum of the actions carried out to the said Directorate-General.

## TOWN PLANNING

According to Law 9/2001, for processing of the **Planning Classification**, once the Regional Ministry responsible for town planning has received the dossier compiled by the Municipality or the application, it must simultaneously make arrangements for mandatory or recommended reports from all Bodies and Administrations whose areas of competence are affected by the application, and where applicable public information for a minimum period of one month.

The Municipality is further required to make a report on the application.

If an environmental impact study, report or assessment is required, Law 9/2001 provides that the procedure must be suspended until an Environmental Impact Statement is forthcoming.

Finally, on the subject of **use permits** we should note that according to Law 9/2001 an Environmental Impact Statement must be submitted along with the application where required. In addition, during processing reports will be requested from any other public administration required by law to provide one.

As a general rule, according to Law 9/2001 the procedures for processing any planning permit granted by a Local Corporation require that reports be requested from any other public administration where these are required by law.

Also, these reports are to be requested simultaneously in a single application.

## ENVIRONMENT

Law 2/2002 provides that during the ordinary procedure for the **Environmental Impact Study** the developer be sent a list of the persons, institutions and administrations that will foreseeably be affected by the project or activity for consultation. They shall then send their suggestions to the developer and a copy to the environmental body.

Moreover, the request for an Environmental Impact Study, whether via the ordinary or the abbreviated procedure, is submitted to the decision-making body competent to approve or authorise the project concerned, which then forwards the request to the environmental body for issuance of an Environmental Impact Statement.

Law 16/2002 provides that an Integrated Environmental Authorisation shall not be granted without a prior Environmental Impact Statement.

Finally, according to Law 2/2002 an Environmental Activities Report is an essential prerequisite for the granting of any municipal permit in connection with the project or activity concerned, and the content of that report is binding in respect of such permits.

Also, according to Article 48 of Law 2/2002, within the first 30 days of every calendar year Local Corporations must send the environmental body of the Community of Madrid a list of activities that have been subject to environmental activity assessment in the previous year.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

The procedure for processing of authorisations required for the construction and commissioning of generation plants is as set out in the national legislation, and therefore we refer

### TOWN PLANNING

The procedure for obtaining a **building permit** is regulated in a general way in Law 9/2001 and consists of the

### ENVIRONMENT

The applicable regulations do not provide a specific procedure for obtaining an integrated environmental permit in view of the nature of the proposed installation, the technology

to the analysis carried out in connection therewith to determine the procedure that would be followed in the Community of Madrid.

We should note that this Autonomous Community has regulated (Decree 142/1998) the procedure for filing at the Registries of electricity generation plants in the Community of Madrid, consisting of the following steps:

- n The procedure is initiated when the interested party makes an application to the Directorate-General of Industry, Energy and Mines at the Regional Ministry of Economy and Employment of the Community of Madrid.
- n Once the application for registration is received, the Directorate-General of Industry, Energy and Mines shall, if appropriate, file the plant concerned at the appropriate Registry within a maximum period of one month and forward a copy of the registration to the Directorate-General of Energy at the Ministry of Industry and Energy.
- n Also within the same time limit the Directorate-General of Industry, Energy and Mines shall forward the application and a copy of the relevant authorisation to the Directorate-General of Energy at the Ministry of Industry and Energy.

In the case of photovoltaic generation plants, the procedure for the establishment of Solar Farms which have a total rated output of less than 100 kW and a connection to Low-Voltage grids shall be as provided in Order 9344/2005. All other solar farms are to be connected to High-Voltage grids, and authorisations are to be processed as a single plant considering their total output, subject to the default procedure laid down in Royal Decree 1955/2000.

According to Order 9344/2005, there are two separate authorisation procedures for the commissioning of non-

following steps where a final design is required.

- n It is initiated when the interested party makes an application accompanied by the documentation required under Article 154 of Law 9/2001.
- n The Local Corporation may make only one request for correction of defects, or additions as the case may be, which must be notified within one month of submission of the application.
- n The Local Corporation shall request the requisite reports from the appropriate public administrations and its Municipal Services shall issue technical and legal reports on compliance of the works with the applicable planning regulations.
- n It shall decide on the building permit in the light of those reports.

If the proposed works do not require a building permit, the procedure consists of the following steps:

- n The interested party must submit an application with the documentation indicated. The Local Corporation shall examine the application and request corrections or additions to the documentation if necessary.
- n If within a period of two months from the date of submission of the application the Local Corporation issues a decision or requests corrections or additions to the documentation, a provisional planning permit shall be automatically deemed to have been granted and construction may commence.
- n Following construction, a Final Works Certificate shall be issued and submitted to the Local Corporation for final inspection of the works. This inspection must be performed within 1 month of the date of the application.
- n If the inspection concludes that the works are in compliance, the Local Corporation shall issue a

used or its capacity.

The procedure for obtaining an **Ordinary Environmental Impact Statement** is regulated in Law 2/2002, and is as follows:

- n It is initiated when the developer submits the documentation necessary for authorisation and a summary memorandum of the project to the decision-making body, which shall forward them to the environmental body within 15 days.
  - n The environmental body has 30 days in which to send the latter a list of persons and institutions that will foreseeably be affected for consultation as to the guidelines that the study should follow.
  - n The results of these enquiries must be sent to the developer within 30 days so that the latter can conduct a study.
  - n The developer has six months from receipt of the list of interested parties in which to complete the study.
  - n Once the Environmental Impact Study has been submitted to the environmental body, it must be publicised along with the substantive project.
  - n Upon conclusion of the public information step, the decision-making body shall send the environmental body the file, including the submissions and counter-submissions received and the reports from the bodies affected for purposes of the environmental impact statement.
- If the substantive project does not require publicising, after it receives the file the environmental body shall publicise the Environmental Impact Study and gather whatever reports it deems necessary.
- n In the light of the reports and submissions, the Regional Ministry competent in environmental matters shall issue an Environmental Impact Statement and forward it to

industrial installations with a low-voltage connection:

- n Commissioning of an installation for which the order requires the submission of a technical proposal. This procedure is initiated following construction of the plant by an Authorised Low-Voltage Installer, who must submit the documentation required in the Order to the EICI.

The EICI has fifteen days in which to examine the documentation. If the installation does not require inspection prior to commissioning, the EICI shall make copies of the Installation Certificate and return four to the installer, who shall keep two and forward the other two to the owner, who shall deliver one to the electricity supplier.

Where prior inspection is required, the EICI shall have fifteen days in which to contact the installer and arrange an inspection visit within no more than twenty-five working days from the date of submission of the documentation.

- n Commissioning of an installation for which the order requires the submission of a technical design memorandum. Once the plant is constructed, the Authorised Low-Voltage Installer must submit the documentation required in the Order to the EICI.

The EICI shall make copies of the Installation Certificate and return them to the installer, who shall forward two to the owner, who in turn shall deliver one to the electricity supplier.

If the installation is included in the sampling programme, the EICI shall have fifteen days in which to examine the documentation and request amendments if it does not comply with the terms of the Order.

Following examination of the documentation and any amendments that may be required, the EICI shall

definitive planning permit including a first use permit.

The procedure regulated here for granting of a first use permit likewise applies to permits for which a Building Project is required.

Finally, the procedure for a **use and activities permit** is regulated in Article 155 of Law 9/2201. The procedure is essentially the same as for a building permit and consists of the following steps:

- n The permit application is submitted to the Local Corporation along with the documents required under the said Article.
- n Upon submission of the application with all the required documents, a provisional authorisation will automatically be issued for the establishment and operation of the use or uses concerned.
- n The Local Corporation must decide on the application within one month of its submission. This term will be suspended, for a maximum of three months, during the environmental use classification process where this is required by law. The maximum term may only be interrupted once, by a requirement for correction of defects or addition to the application. The absence of notification within the time limit allowed for an express decision shall mean that the permit is granted.
- n However, even in the event of express or implied authorisation, for as long as they persist such uses shall be subject to municipal inspection, and the appropriate technical services may submit in writing any relevant objections regarding legality, safety or health, including after the fact, which objections must be addressed.

If appropriate in the light of these objections, procedures may be initiated to uphold planning law and penalise infringement if objections are not addressed within the

the decision-making body and the developer and shall publish it in the Official Gazette of the Community of Madrid.

The procedure for approval of the **abbreviated environmental impact assessment** consists of the following steps:

- n Application to the Autonomous Community body competent to approve the substantive project, accompanied by the environmental impact study.
- n The decision-taking body then has 15 days in which to forward the application to the environmental body.
- n The environmental body shall publicise the Environmental Impact Study for 20 days.
- n Finally, that body shall decide on the Environmental Impact Statement in the light of the submissions and reports and shall duly inform the decision-making body and the developer following publication in the BOM.

The procedure for granting of an **Environmental Report on Activities** is regulated in Law 2/2002 and consists of the following steps:

- n The developer submits an application to the Local Corporation along with the technical proposal.
- n In the light of the application, the Local Corporation shall gather the mandatory environmental reports and publicise it for 20 days, personally notifying parties affected in the neighbourhood.
- n In the light of the submissions and reports received, the Local Corporation shall issue an Environmental Impact Report.
- n If the proposed environmental impact report is negative or requires corrective measures, the interested party shall be notified before it is issued and given 10 days in which to make the appropriate submissions or

contact the installer to arrange for an inspection, which must be carried out within 25 days from the date of submission of the documentation.

Order 9343/2003 regulates the procedure for commissioning of non-industrial thermal installations in buildings. In this case there are two procedures depending on whether the installation requires a project or a technical memorandum:

- n If a project is required (installations having a rated thermal output of more than 70 kW) the procedure is initiated when the owner of the installation or his representative submits the documentation stipulated in this Order to the EICI.

The EICI shall verify whether all the documentation specified in the Order is included, and if so it shall issue two copies of the application for registration of the thermal installation, one for the owner of the installation and another for delivery to the electricity supplier.

- n If a technical memorandum is required (thermal installations in buildings having a rated thermal output of 5 kW or more and less than 70 kW), once the installation is complete the procedure is initiated when the owner submits an application for registration of a thermal installation to the EICI along with two copies of the technical memorandum for the installation, on the standard form, drawn up and signed by the authorised installer or by a competent qualified technician and approved by the appropriate Professional Association.

Once the two copies of the requisite application for registration of the thermal installation have been processed by the EICI and returned to the owner, one copy is to be submitted to the electricity supplier, who shall, if appropriate, supply electricity on a provisional basis for up to thirty days.

stipulated time limits.

However, for exact details of the procedure for municipal planning permits, it is necessary to examine the regulations laid down in the relevant municipal by-laws.

The procedure for obtaining the **Planning Classification** is regulated in Articles 148 and following of Law 97/2001, and consists of the following steps:

- n It is initiated when the interested party makes an application to the appropriate Local Corporation accompanied by the documentation required under the above Articles.
- n The Local Corporation shall have one month in which to report on the application and forward the file to the Regional Ministry competent in matters of town planning.
- n If the Local Corporation has not forwarded the application within that time, the interested party may resubmit the application, along with the requisite documentation, to the Regional Ministry. The municipal report shall then be deemed positive, albeit the report that is eventually forthcoming may be forwarded during the procedure at regional level.
- n Once the dossier compiled by the Municipality has been forwarded or the application has been resubmitted directly to the Regional Ministry responsible for town planning, the latter must simultaneously make arrangements for mandatory or recommended reports from all Bodies and Administrations whose areas of competence are affected by the application, and where applicable public information for a minimum period of one month.
- n It shall then decide on the application in the light of these reports.

amendments.

Finally, we should note that the procedure for obtaining an **Integrated Environmental Authorisation** has not been implemented by the Autonomous Community, and hence we remit to the national legislation as mentioned in this section (i.e. Law 16/2002).

The Third Additional Provision of Law 2/2002 provides that the environmental procedures regulated therein (for the present purposes, the Project Environmental Assessment and the Environmental Report on Activities) shall be automatically included in the integrated environmental authorisation procedure.

Where an inspection is required before commissioning, the EICI shall have up to ten days in which to determine whether the documentation submitted is technically in order and complies with the criteria laid down in the Order. If there are defects, within the same period the EICI shall notify these to the installer, or to the main contractor as the case may be, and request whatever comments, guidelines or clarifications it deems necessary to remedy them. In addition, the inspection of the installation must be carried out within not more than twenty-five working days from the initial filing date.

Once the installation has a provisional power supply, 25 days shall be allowed to conduct the requisite tests, following which the certificate for the installation shall be submitted to the EICI for processing. Once processed, the certificate shall be delivered to the electricity supplier to arrange a permanent supply.

Finally, the procedure for commissioning of thermal energy generation plants for industrial use shall be as set out in the Order of 17 February 2009, which lays down the following procedure:

- n Once the plant is in place, the interested parties shall apply to the EICI for the requisite authorisation, attaching the necessary documentation.
- n The EICI shall have 10 days in which to examine the documentation and request any corrections within a further 10 days.
- n Once the documentation is complete, the EICI shall decide on the application and notify the interested party.

TIME LIMIT FOR GRANTING		
INDUSTRY	TOWN PLANNING	ENVIRONMENT
The time limit for granting of the industrial authorisations	According to Article 154(5) of Law 9/2001, in the <b>building</b>	According to Law 2/2002, the time limit for the issuance of a

required for the installation of electricity generation plants using renewable energy sources and connected facilities is that provided in Royal Decree 1955/2000, analysed earlier, which is applicable by default (3 months from the date of submission of the application to issue and notify a decision. The same time limit for approval of the Final Design, and 1 month for the start-up permit).

The time limit for filing at the Registry of special scheme electricity generation plants shall be one month pursuant to Art. 4 of Decree 142/1998. The meaning of administrative silence is not specified, and therefore the general scheme rules apply.

The time limit for granting of permission to commission non-industrial electrical installations connected to a low-voltage grid is 15 days if the installation does not require inspection and 25 days if it does, whether or not a technical proposal or technical memorandum is required.

According to the Order of 17 February 2009, the time limit for granting of a start-up permit for industrial thermal installations is three months from the date of application.

**permit** procedure, if no notice of additional requirements or a decision is forthcoming from the local corporation within three months following the date of application for the permit, or one month following compliance with any requirement that may have been issued to remedy defects in or make additions to the application, the latter shall be deemed to be granted by virtue of administrative silence, in the terms set out in the relevant building works project .

In addition, according to Article 155(3) of Law 9/2001, as regards the procedure for granting of a **first use and activity permit**, the Local Corporation must decide on the application within one month of its submission.

According to Article 148 of Law 9/2001, the time limit for granting and notification of the final decision on **Planning Classification** shall be six months if there is a public information requirement, or three months in all other cases, as from the entry date of the file or the application reiterating the one presented to the Local Corporation in the registry of the Regional Ministry competent in matters of town planning, or where applicable as from the amendment or addition to the documentation accompanying either one should such a requirement be issued within the fifteen days following the said entry date.

If no notice of a decision is forthcoming within the time limit, the application is deemed to be denied.

decision concluding the environmental procedures regulated therein is as follows:

n Nine months to issue an Environmental Impact Statement in the case of the ordinary procedure, as from the date of receipt of the summary memorandum by the administration.

n Five months to issue an Environmental Impact Statement in the case of an abbreviated procedure.

In either case if no express decision is forthcoming within the specified time limits, the Environmental Impact Statement shall be deemed to be negative.

n Five months for issue of an Environmental Assessment Report on Activities from the date of application. If no express decision is forthcoming within that time, the Environmental Assessment Report shall be deemed to be negative.

According to Law 16/2002, the time limit for granting of an Integrated Environmental Authorisation shall be ten months from the date of application. If no decision is forthcoming within that time, the application shall be deemed to be denied by virtue of administrative silence.

## FEES

### INDUSTRY

For industrial purposes, certain charges are payable to the EICI for the commissioning of installations regulated in Order 9343/2005 and Order 9344/2005.

Chapter IX of Legislative Decree 1/2002 approving the Consolidated Text of the Public Fees and Prices Act of the Community of Madrid regulates the payment of a fee for action by the Community of Madrid in connection with

### TOWN PLANNING

We should note that for planning purposes there is no regional regulation for the charging of any fee for processing authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

### ENVIRONMENT

For environmental purposes Chapter LXII of Legislative Decree 1/2002 approving the Consolidated Text of the Public Fees and Prices Act of the Community of Madrid regulates the payment of a fee for granting of the Integrated Environmental Authorisation.

The taxable event for which this fee is charged is the performance by the Community of Madrid of all the activities



planning of industrial, energy and mining activities.

These actions include: (i) filing at the Industrial Registry; (ii) certificate of operation and registration of high-voltage installations; (iii) registration of low-voltage electrical installations; and (iv) heating, air-conditioning and hot water installations.

The amount of the fee depends on the cost of the project or of the installation, as applicable in each case.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the establishment of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

One must therefore look to the regulations contained in the by-laws of each municipality.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

necessary for issuance of the integrated environmental authorisation to the applicant.

There are three rates for this fee depending on the authorisations required for issuance of the Integrated Environmental Authorisation.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

According to Order 9343/2003, the documentation for commissioning a non-industrial installation subject to the provisions of the RITE is to be submitted by the owner, but it also requires submission of documentation compiled by the Authorised Installer.

Order 9344/2003 requires that the documentation for commissioning of non-industrial electrical installations with a low-voltage connection be submitted by the Authorised Installers who carried out the installation.

Likewise, RD 2060/2008 approving the Regulation for pressurised equipment and thermal instructions provides that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is required from the Administration..

### TOWN PLANNING

### ENVIRONMENT

# **AUTONOMOUS COMMUNITY OF MURCIA**

## AUTONOMOUS COMMUNITY OF THE REGION OF MURCIA

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of the Region of Murcia the following regulatory provisions are in force, which regulate the authorisations necessary to set up electricity generation plants using renewable energy sources

- n **Decision of 5 December 2008** by the Directorate-General of Industry, Energy and Mines laying down instructions in connection with minor enlargements or modifications of certain electricity production, transmission and distribution facilities.
- n Renewable Energies and Energy Saving and Efficiency Act, **Region of Murcia Law 10/2006** of 21 December 2006.
- n **Decree 47/2003** of 16 May 2003 on Registration of Industrial Establishments in the Region of Murcia.
- n **Order of 25 April 2001** of the Regional Ministry of Technologies, Industry and Trade laying down authorisation procedures for electricity supplies exceeding 1 kV (hereafter Order of 25 April 2001).
- n **Order of 5 July 2001** of the Regional Ministry of Industry, Energy and Mines implementing the Order of 24 April 2001 on authorisation procedures for electricity supplies exceeding 1 kV (hereafter Order of 5 July 2001).

#### PLANNING

The following regulatory provisions shall be applicable within the territorial limits of the Region of Murcia:

- n **Legislative Decree 1/2005** of 10 June 2005 approving the Consolidated Text of the Land Act of the Region of Murcia (hereafter the Land Act of Murcia).
- n Any municipal by-laws that may have been introduced by Local Authorities.

#### ENVIRONMENT

Besides the national legislation, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of the Region of Murcia:

- n Integrated Environmental Protection Act, **Law 4/2009** of 14 December 2009 (hereafter Law 4/2009).
- n Any municipal by-laws that may have been introduced by Local Authorities.

### REGULATORY COMPETENCES

## INDUSTRY

The Spanish State is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures.

Article 10(1)(28) of the Statute of Autonomy of the Region of Murcia approved by Organic Law 4/1982 of 9 June 1982 confers competence on the Autonomous Community of the Region of Murcia in respect of energy production, distribution and transmission plants where the transmission remains within the Community and its exploitation does not affect another Autonomous Community.

Article 11(4) of the Statute confers competences on the Autonomous Community of the Region of Murcia for legislative and material implementation in matters of mining and energy regulation.

## PLANNING

Article 10(1)(2)a) of the Statute of Autonomy of the Region of Murcia approved by Organic Law 4/1982 of 9 June 1982 confers exclusive competence on the Autonomous Community of the Region de Murcia in respect of land use planning, including the coast, town planning and housing.

## ENVIRONMENT

The Spanish State is competent to lay down the basic rules on matters of environmental protection.

Article 11(2 and 3) of the Statute of Autonomy of the Region of Murcia, approved by Organic Law 4/1982 of 9 June 1982, confers competences for implementing legislation and executive powers in respect of woodlands, forestry resources, livestock trails, pastureland and protected areas, and also in respect of environmental protection and additional protective regulations.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

We should note that Article 11 of the Renewable Energy and Energy Saving and Efficiency Act, Region of Murcia Law 10/2006 of 21 December 2006, provides for the creation of an "authorisation for exploitation" which brings together all the authorisations and prerequisites in the current legislation for the installation of renewable energy projects of potential utility in the Region of Murcia. However, despite that provision, we are not aware that the unified procedure for renewable energy projects is in place at this time or that it is expected to be introduced shortly, according to a verbal report from the Director-General of Industry, Energy and Mines.

### PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

In accordance with Article 2 of the Order of 25 April 2001:

- n Authorisations for electrical installations of more than 1 kV for electricity generation or distribution must follow the procedure laid down in Title VII of Royal Decree 1955/2000 of 1 December 2000 (hereafter Royal Decree 1955/2000). The following authorisations are required:
  - l Administrative authorisation.
  - l Approval of final design for a high-voltage plant.
  - l Commissioning certificate.
- n Electrical installations of more than 1 kV not intended for generation or distribution shall be processed in accordance with Royal Decree 2135/1980 of 26 September 1980 on industrial deregulation. The following steps will be required:
  - l Project approval.
  - l commissioning, entailing remittal to the Administration of a certificate issued by a competent body certifying that the works are in compliance with the project and any other legally required conditions.
- n For electrical installations of more than 1 kV this administrative authorisation procedure is not required. Plants of this kind are to be commissioned in accordance with Article 18 of Royal Decree 842/2002 of 2 August 2002 approving the Low-Voltage Electro-technical Regulation.

According to Article 2(1)(b) of Decree 47/2003, The Registry of Industrial Establishments of the Region of Murcia shall contain details of *"energy and energy product*

### PLANNING

For the construction of plants for generation of electricity using renewable energy sources and associated facilities the following planning authorisations are required:

- n Building permit.
- n Exceptional authorisation if it is proposed to build the plant on unzoned developable land or on non-developable land that is protected by the planning or is unsuitable for urban development.
- n Activity permit.

### ENVIRONMENT

For the construction of plants for generation of electricity using renewable energy sources and associated facilities the following environmental authorisations will be required:

- n Environmental Impact Statement, in the cases listed in Annex III section A) of Law 4/2009.  
Annex III section A) includes the following installations:
  - Thermal power stations and other combustion plants with a thermal output of at least 50 MW.
  - Industrial plants for the production of electricity, steam and hot water with a thermal output exceeding 50 MW.
  - Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
  - Plants utilising wind power to produce energy (wind farms) having 25 or more wind turbines or situated less than 2 km from another wind farm.
  - Plants for the production of photovoltaic solar or thermal energy with an installed capacity of more than 20 MW or covering an area of more than 100 ha.

In addition, the following projects listed in Annex III section A) which fall short of the thresholds laid down therein where they are carried out in especially sensitive areas, including areas belonging to the Natura 2000 Network, wetlands included in the list of the Ramsar convention and other areas protected by international instruments, and protected nature reserves:

- Overhead power lines longer than 3 kilometres.

*generation, distribution and supply activities".*

- Wind farms with more than 10 wind turbines.

Also in the cases listed in Annex III section B) when so decided on a case-by-case basis:

- Transmission of electricity by overhead lines (projects not included in section A) which are longer than 3 kilometres.
- Hydroelectric electricity generation plants (where none of the works comprising the plant so require according to section A).
- Wind farms not included in section A.
- Industrial plants for the production of electricity, steam and hot water with a thermal output exceeding 100 MW.

- n Integrated Environmental Authorisation in the cases listed in Annex I of the Pollution (Prevention and Control) Act, Law 16/2002 of 1 July 2002:

- Combustion installations with a thermal output exceeding 50 MW.
  - a) Ordinary or special scheme electricity generation plants that burn fossil, waste or biomass fuels.
  - b) Co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by an undertaking, whether or not that is its principal activity.

- n Single Environmental Authorisation in the cases listed in Annex I of Law 4/2009: activities which in addition to a municipal activity permit require an environmental impact statement.

- n Activity permit pursuant to Law 4/2009. If the activity requires an integrated or regional environmental authorisation, the procedure for obtaining an activity permit is included in the procedure for obtaining an

environmental authorisation (Article 72 of Law 4/2009).

## **AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS**

### **INDUSTRY**

According to the Order of 25 April 2001, the Administration competent to grant authorisations for electrical installations of 1 kV for electricity generation or distribution is the Regional Ministry competent in industrial matters.

The Regional Ministry competent in industrial matters shall also be the Administration competent to issue the Commissioning Certificate for the plant.

Also, the Regional Ministry competent in industrial matters is the body competent to grant recognition of special scheme status for the plant and to file it at the Registry of Special Scheme Electricity Generation Plants.

According to Article 8 of Decree 47/2003 of 16 May 2003, the Regional Ministry competent in industrial matters shall bear sole responsibility for the entry, amendment and cancellation of details in the Registry of Industrial Establishments of the Region of Murcia.

At the present time the department competent to carry out the formalities listed in this section is the Directorate-General of Industry, Energy and Mines

### **PLANNING**

The administration competent to grant the building permit and the activity permit is the Local Corporation at the site proposed for the plant.

The Regional Minister competent in planning matters is competent to grant the exceptional authorisation for building on non-developable and unzoned developable land, although the application must be submitted to the Local Corporation as provided in Article 222 of the Land Act of Murcia.

### **ENVIRONMENT**

The Regional Ministry with competences in environmental matters is the body competent to grant the Environmental Impact Statement, the Integrated Environmental Authorisation and the Single Environmental Authorisation. At the present time the body competent in this respect is the Directorate-General of Environmental Planning, Assessment and Control.

Granting of the activity permit is the responsibility of the Local Corporations.

## INFORMATION MEASURES

### INDUSTRY

The Order of 25 April 2001 provides that once the application for authorisation for an electricity generation or distribution plant of more than 1 kV is submitted, a public information announcement shall be placed in the Official Gazette of the Region of Murcia.

Notwithstanding the foregoing, the Order of 5 July 2001 provides that the above public information formality shall be deemed to have been completed when the owner submits the following documents:

- Acceptance by the energy distribution undertaking of the point of connection to its grid specified in the project.
- Declaration by the owner that land is available for construction of the high-voltage lines.
- Permission to traverse, and where applicable place supports, from the owners of any land the lines will cross, as listed in the above declaration, along with a layout plan identifying the property affected.
- Permissions and any requirements imposed by all the official bodies affected by the installations.

The public information procedure will be followed in cases of electrical installations of more than 1 kV which are not for generation or distribution where this is specifically requested by the owner or the Administration considers it desirable.

Article 128 of Decree 1955/2000, to which the Order of 25 April 2001 refers, provides that the decision on the granting of authorisation must be published in the Official Gazette.

### PLANNING

Applications for exceptional authorisation to build on non-developable or unzoned developable land shall be publicised by the Local Corporation to which they are made for a period of not less than 20 days in the Official Gazette of the Region of Murcia, as provided in Article 86 of the Land Act of Murcia.

### ENVIRONMENT

Articles 93 and 98 of Law 4/2009 regulate the public information step in the procedure for obtaining an environmental impact statement:

- n Public information for not less than 30 days by means of announcement in the Official Gazette of the Region of Murcia upon submission of the Environmental Impact Study by the developer.
- n The decision on environmental impact shall be made public by an announcement in the Official Gazette of the Region of Murcia.

Article 32 of Law 4/2009 provides that the procedure for the integrated environmental authorisation shall in all cases include a public information step to enable any natural or legal person to examine the file or whatever part thereof it is decided:

- n Where the project is subject to environmental assessment, the public information step shall be carried out by the competent decision-making body, as part of, and concurrently with, the applicable procedure for authorisation or approval of the project to which it is related. It shall last for not less than 30 days and consist of an announcement in the Official Gazette of the Region of Murcia following preparation of the environmental impact study, pursuant to Article 93.
- n If the activity does not require an environmental assessment of projects but does require any of the established substantive authorisations, the public information step shall be carried out by the body competent to issue the substantive authorisation, in the form of an announcement in the Official Gazette of the Region of Murcia for at least thirty days. This step shall be the same as the one provided where applicable in



the substantive authorisation procedure.

The decision granting or amending the integrated environmental authorisation shall be published in the Official Gazette of the Region of Murcia pursuant to Article 39 of Law 4/2009.

In connection with the single environmental authorisation, Articles 50 and 51 of Law 4/2009 provide for the following public information measures:

- n Where the project is subject to environmental assessment, the public information step shall be carried out by the competent decision-making body, as part of, and concurrently with, the applicable procedure for authorisation or approval of the project to which it is related. It shall consist of an announcement in the Official Gazette of the Region of Murcia for a period of not less than 30 days following preparation of the environmental impact study, pursuant to Article 93.
- n If the activity does not require an environmental assessment, the Local Corporation of the municipality where the activity is to be located shall place an edict on its bulletin board and shall inform the persons immediately neighbouring the proposed site of the application for a single environmental authorisation and of where the documentation is to be found for a period of twenty days.

Article 98 of Law 4/2009 provides for publication of the Environmental Impact Statement in the Official Gazette of the Region of Murcia, jointly with the integrated or single environmental authorisation if the activity requires one.

Also, Article 77 of Law 4/2009 provides that the application for a permit for activities subject to environmental assessment shall be publicised by means of an edict on the Bulletin board of the Local Authority concerned for a period of not more than 20 days.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

Article 127 of Royal Decree 1955/2000, to which the Order of 25 April 2001 refers, provides that notice is to be sent to Administrations, bodies or undertakings provided public services or services of general interest the property and rights in whose care may be affected by the granting of authorisation, giving them twenty days in which to assent or state any objections.

According to Article 15 of Law 4/2009:

- Before authorisations can be issued for industrial installations, the appropriate regional environmental authorisation is required, pursuant to Title VII of RD 1955/2000.
- In the case of plants not requiring an industrial authorisation and coming under the notification rules of Royal Decree 2135/1980, before they can be filed at the Registry of Industrial Establishments, an activity permit must be issued.

### PLANNING

In cases where authorisation is required from another Administration before a municipal permit is granted, the time limit for granting of the permit shall be suspended pending certification at the Local Corporation of the decision concluding the procedure carried out by that Administration, pursuant to Article 217 of the Land Act of Murcia.

The grant of a permit for major works by a Local Corporation must be notified to the Regional Ministry competent in planning matters within fifteen days, pursuant to Article 219 of the Land Act of Murcia.

Article 86 of the Land Act of Murcia provides that the Autonomous Community may gather the necessary reports for the granting of an exceptional authorisation.

This exceptional authorisation may be processed jointly with the application for the certificate of planning compliance required by Law 4/2009 for applications for the Integrated or Single Environmental Authorisation. The certificate of planning compliance may be issued by the Local Corporation subject to subsequent granting of the an exceptional authorisation.

### ENVIRONMENT

Articles 29 and 47 of Law 4/2009 provide that before an application for an integrated or single environmental authorisation can be submitted for projects subject to environmental assessment, the competent environmental body must rule on the breadth and level of detail of the environmental impact study.

Law 4/2009 provides that during processing of the environmental authorisation application, copies of the file are to be sent to the bodies that have to issue an opinion within their field of competence, and to the Local Corporation where the plant is to be sited.

No building permit may be issued without the prior grant of the appropriate permit for the activity, pursuant to Article 64 of Law 4/2009.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

Applicable legislation provides two different procedures for electrical installations of more than 1 kV depending on whether or not they are intended for electricity generation and distribution.

The procedure for electrical installations of more than 1 kV

### PLANNING

The applicable planning regulations do not provide a specific procedure for obtaining municipal permits in view of the nature of the proposed installation, the technology used or its capacity. The procedure for obtaining the permit is the general one laid down in those regulations.

### ENVIRONMENT

The applicable planning regulations do not provide specific procedures in view of the nature of the proposed installation, the technology used or its capacity. The procedure for obtaining environmental authorisations is the general one laid down in those regulations

intended for electricity generation or distribution shall be the one set out in Title VII of Royal Decree 1955/2000:

- n Environmental Impact Study: must be obtained before submission of applications for authorisation.
- n The application for approval of the project and the applications for administrative authorisation are to be submitted jointly.
- n Public information on the administrative authorisation for 20 days in the Official Gazette of the Region of Murcia.
- n Notice to the different Administrations whose property or rights may be affected, for 20 days.
- n Decision and notification.
- n Commissioning certificate: final certificate of works and technical management must be furnished.

The procedure for electrical installations of more than 1 kV not intended for electricity generation or distribution shall be the one set out in Royal Decree 2135/1980:

- n Submission of Project.
- n Commissioning: notification by a competent technical expert shall suffice.

The procedure for obtaining a building permit is regulated in a general way in Article 217 of the Land Act of Murcia:

- n Major works. The application must be accompanied by a project signed by a competent technical expert and endorsed by the appropriate Professional Association where its Statutes so require, identifying the technical director or the works.
- n Minor works. The application must state the scale of the works and be accompanied by a budget for material execution.

Also, the permit is deemed to be granted in the event of administrative silence; however, under no circumstances shall administrative silence be deemed to signify approval of permits which contravene the law or the planning regulations.

This regulation must be completed by concrete municipal by-laws, which may define the procedure in more detail if appropriate.

The procedure for obtaining an exceptional authorisation to build on non-developable or unzoned developable land is regulated summarily in Article 86 of the Land Act of Murcia:

- n Submission of application to the Local Corporation.
- n Public information in the Official Gazette of the Region of Murcia for a minimum of 20 days.
- n Remittal of file to regional body.
- n Mandatory reports.
- n Decision. If no express decision is notified within four months from the date of submission of the application, it is deemed to be denied.

The procedure for obtaining the Environmental Impact Statement is regulated in Law 4/2009, and consists of the following steps:

- n Preliminary application if the Administration has to determine whether the project requires environmental assessment.
- n Once it is determined that the project requires an Environmental Impact Study, or if it is mandatory by reason of inclusion in Annex III of Law 4/2009, an application must be submitted to initiate the project environmental assessment step in order to ascertain the breadth and level of detail required.
- n Once the breadth and level of detail of the Environmental Impact Study have been determined, it is drafted and presented.
- n Finally, upon conclusion of the requisite formalities, an Environmental Impact Statement is issued.

The procedure for obtaining the integrated environmental impact authorisation is also regulated in Law 4/2009, and consists of the following steps:

- n Application to the competent body.
- n Public information on the application.
- n Issue of the requisite reports by the Local Corporation and other bodies with competences in that respect.
- n Preparation of a draft decision, which must explain the issuances raised by the reports received.
- n The developer shall be given a hearing where he can make any submissions he deems pertinent.
- n In the event of disagreement the submissions are passed on to the bodies that issued the reports for

The procedure for granting of an activity permit is regulated in Law 4/2009, which distinguishes three different cases:

- n Activity requiring an integrated or single environmental authorisation. Inclusion in the procedure for granting authorisation. The activity permit is granted immediately after the Local Corporation receives notice that the authorisation has been granted.
- n Activity requiring environmental assessment. Submission of application with the requisite documentation. Publication on the Local Corporation's bulletin board for a maximum of 20 days, followed by a decision.
- n Activities exempt from environmental classification. Processed in accordance with the by-laws of the Local Corporation concerned (e.g. rooftop photovoltaic installations).

comment as they see fit.

- n The Administration issues a decision granting or refusing the integrated environmental authorisation.
- n Notification prior to commencement of operation.

The procedure for obtaining the single environmental impact authorisation for activities requiring project environmental assessment is regulated in Law 4/2009, and consists of the following steps:

- n Application to the decision-making body for project environmental assessment.
- n Neighbourhood notification by the Local Corporation.
- n Application publicised by the decision-making body.
- n Issue of the requisite reports by the Local Corporation and other bodies with competences in that respect.
- n Decision by the Administration, stating the conditions to be fulfilled by the installation and incorporating an environmental impact statement.
- n Verification and commissioning.

The procedure for obtaining the single environmental impact authorisation for activities not requiring project environmental assessment is regulated in Law 4/2009, and consists of the following steps:

- n Application to the body competent to grant the authorisation.
- n Correction of defects.
- n Publicising in the form of an edict placed on the bulletin board, and neighbourhood notification.

- n Issue of the requisite reports by the Local Corporation and other bodies with competences in that respect.
- n Decision by the Administration, stating the conditions to be fulfilled by the installation and incorporating an environmental impact statement.
- n Verification and commissioning.

The procedure for granting of an activity permit as regulated in Law 4/2009 is included in the procedure for the granting of an integrated or single environmental authorisation.

In cases where the activity permit is requested for an activity not exempt from environmental assessment pursuant to Annex II of Law 4/2009 and not requiring an integrated or regional environmental authorisation, the procedure shall be as follows:

- n Submission of application to the Local Corporation.
- n Publicising in the form of an edict placed on the bulletin board, and neighbourhood notification.
- n Environmental classification report.
- n Decision on granting of permit.
- n Notification prior to commencement of activity.

In cases of activities that are exempt from environmental classification pursuant to Annex II of Law 4/2009 (e.g. rooftop photovoltaic installations), the procedure for granting of an activity permit shall be laid down by the Local Corporations in the form of by-laws.

## TIME LIMIT FOR GRANTING

INDUSTRY

PLANNING

ENVIRONMENT

Regarding the procedure laid down in Royal Decree 1955/2000 for electricity generation or distribution plants of more than 1 kV:

- n The time limit for granting of administrative authorisation and approval of the project is three months from the date of application pursuant to Articles 128 and 131 of Royal Decree 1955/2000. Administrative silence means the application is denied.
- n The time limit for the commissioning certificate is one month from the date of application pursuant to Article 132 of Decree 1955/2000.

The procedure laid down in Royal Decree 2135/1980 for installations of less than 1 kV not intended for electricity generation or distribution provides that the administration has one month from the date of submission of the project to indicate or request clarifications. If by the deadline the competent body has issued no response, it shall be assumed that there is no objection to execution of the project; however, under no circumstances does that mean technical approval of the project by the administration.

The time limit for an exceptional authorisation is four months from the date of application. Administrative silence means the application is denied, pursuant to Article 86 of the Land Act of Murcia.

The maximum time allowed for granting of a building permit shall be one month for minor works and three for major works. In cases where a ruling from the regional authority is required, the time limit shall be suspended until it is forthcoming.

According to Law 4/2009, the time limit for granting of an activity permit differs in different cases:

- n Unless processed jointly with the planning permit, the maximum time limit for deciding on the application and notifying shall be three months, at the end of which the permit shall be deemed to be granted by reason of positive administrative silence (Article 63).
- n Once the regional environmental authorisation is granted, the local corporation must decide on and notify the activity permit immediately after it receives notice of granting from the competent regional body (Article 72). The maximum time limit shall be two months if the Local Corporation has not submitted a report on the aspects within its purview.
- n In the case of activities requiring environmental classification, the maximum time limit for deciding on and notifying the grant or denial of the activity permit shall be six months, at the end of which the application shall be deemed to be granted (Article 80).

The environmental body of the Autonomous Community of Murcia shall have three months to compile an environmental impact statement once it receives the file, pursuant to Article 94 of Law 4/2009. Approval or authorisation by administrative silence is not possible in the case of any project requiring environmental assessment if no impact statement has been issued or if it would conflict with that statement.

The time limit for granting of an integrated environmental authorisation is 10 months from the date of entry of the application in the registry of the competent body.. If no express decision is forthcoming within that time, the application shall be deemed to be denied (Article 38, Law 4/2009).

The time limit for granting of a single environmental authorisation is 8 months from the date of entry of the application in the registry of the competent body.. If no decision is forthcoming within that time, the application shall be deemed to be denied (Article 52, Law 4/2009).

## FEES

### INDUSTRY

According to Legislative Decree 1/2004 of 9 July 2004 approving the Consolidated Text of the Public Fees, Prices and Special Contributions Act, the taxable event in the case of Fee T610 (Fee for planning of industrial and

### PLANNING

Should an exceptional authorisation be required from the Regional Ministry competent in planning matters, a charge must be levied for exceptional use on non-developable land, equivalent to 1% of the budget according to Article

### ENVIRONMENT

According to Legislative Decree 1/2004 of 9 July 2004 approving the Consolidated Text of the Public Fees, Prices and Special Contributions Act, the taxable event in the case of Fee T240 (Fee for action in connection with environmental

energy activities and installations) is administrative action in the planning of industrial and energy activities and installations in connection with authorisation for operation and filing at registries of industrial and energy installations, both newly-built and extensions or alterations, and legalisation of clandestine installations, with or without a technical proposal.

This means that the procedures for authorisation and registration of electrical installations are subject to Fee T610, the amount of which is set in the Ministry of Economy and Finance Order of 23 January 2009 publishing the rates for public fees and prices for 2009, which are extended to 2010 since the General Budget Act of the Autonomous Community of the Region of Murcia does not provide for any increase this year.

222 of the Land Act of Murcia.

At a municipal level one must look to the concrete municipal by-laws given that according to Article 20(4) of the Consolidated Text of the Local Finance Act approved by Legislative Royal Decree 2/2004 of 5 March 2004, a fee may be established for the processing of planning permits.

Also, according to Legislative Decree 1/2004 of 9 July 2004 approving the Consolidated Text of the Public Fees, Prices and Special Contributions Act, the taxable event in the case of Fee T440 (Fee for action and reports in connection with planning) is:

- n Drafting of reports or issuance of certificates relating to planning matters, including the preliminary feasibility report on Actions of Regional Interest as referred to in Article 44 of the Land Act of the Region of Murcia, Law 1/2001 of 24 April 2001.
- n Exceptional authorisations on unzoned developable land as referred to in Article 83(4) of the Land Act of the Region of Murcia.
- n Administrative processing of authorisations on non-developable land pursuant to the Land Act of the Region of Murcia, without prejudice to the charge for exceptional use provided in Article 222 of the said Act.

protection and control of potentially pollutant activities) is environmental action and procedures relating to Environmental Impact Assessment, strategic Environmental Assessment and Control of Assessed and Classified Activities.

This means that procedures for integrated or single environmental authorisation like the Environmental Impact Assessment are subject to Fee T240, the amount of which is set in the Ministry of Economy and Finance Order of 23 January 2009 publishing the rates for public fees and prices for 2009, which are extended to 2010 since the General Budget Act of the Autonomous Community of the Region of Murcia does not provide for any increase this year.

# **AUTONOMOUS COMMUNITY OF NAVARRE**



## AUTONOMOUS COMMUNITY OF NAVARRRE

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are the default options in certain matters, in the Foral Community of Navarre, the following regulatory provisions are in force which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) plants using renewable energy sources.

- n **Foral Order 258/2006** of 10 August 2006 laying down rules for administrative processing of commissioning and connection to the special scheme electricity grid and groups thereof. (Completes the rules laid down in RD 661/2007).
- n **Foral Order 181/2003** of 21 August 2003 laying down the procedure to be followed in administrative processing for the commissioning of low-voltage installations.
- n **Foral Decree 125/1996** of 26 February 1996. Regulates the installation of wind farms.
- n **Foral Decree 685/1996** of 24 December suspending approval of new wind farms.
- n **Foral Order 634/2004** of 21 June 2004 laying down the procedure for carrying out modifications in wind farms for environmental reasons.
- n **Foral Order 200/2004** of 10 May 2004 regulating modifications in wind farms for environmental reasons.
- n **Foral Decree 68/2003** introducing rules for the installation and use of wind energy generation plants

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of Navarre:

- n **Foral Law 35/2002** of 20 December 2002. Foral Town and Country Planning Act.
- n **Foral Decree 85/1995** of 3 April 1995 approving the Regulation implementing the Foral town and Country Planning Act of Navarre.
- n **Foral Decree 84/1990** of 5 April 1990 regulating regional installation of industrial estates and activities.
- n **Foral Order 64/2006** of 24 February 2006.
- n Municipal by-laws which may have been enacted by Local Governments.

#### ENVIRONMENT

The following regulatory provisions shall be applicable within the territorial limits of the Foral Community of Navarre:

- n **Foral Law 4/2005** of 22 March 2005 regulating intervention to protect the environment.
- n **Foral Decree 93/2006** of 28 December 2006 approving the Regulation implementing Foral Law 4/2005 of 22/3/2005 on intervention to protect the environment.
- n **Foral Order 64/2006** of 24 February 2006. This regulates the environmental and planning criteria and conditions for the installation of solar energy plants on non-developable land.

for self-consumption or for experimental purposes.

- n **Foral Order 424/2009** of 1 October laying down rules to implement the Regulation for Thermal installations in Buildings (RITE) within the territory of the Foral Community of Navarre.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures.

Article 44(6) of the Fuero of Navarre (Revision) Act approved by Organic Law 13/1982 of 10 August 1982 confers exclusive competence on the **Foral Community of Navarre** in respect of energy generation, distribution and transmission plants where the transmission remains within the territory of Navarre and its exploitation does not affect any other State territory or mineral, thermal and underground waters, all without prejudice to the basic national legislation on mining and energy.

Article 57(f) of Organic Law 13/1982 confers competence on the **Foral Community of Navarre** for legislative and material implementation in matters of mining and energy regulation.

### TOWN PLANNING

Article 44(1) of the Fuero of Navarre (Revision) Act approved by Organic Law 13/1982 of 10 August 1982 confers exclusive competence on the **Foral Community of Navarre** in respect of land use planning, town planning and housing.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 57(c) of the Fuero of Navarre (Revision) Act approved by Organic Law 13/1982 of 10 August 1982 confers competences on the **Foral Community of Navarre** in respect of environmental protection and ecology.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are not aware of any proposal to amend the applicable regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

Regarding electricity generation plants and associated

### TOWN PLANNING

For the construction of plants for generation of

### ENVIRONMENT

For the construction of plants for generation of electricity

facilities using renewable energy sources, we should note that at regional level only the installation of wind energy production has been regulated, and therefore the national legislation is applicable by default to authorise the construction of such plants.

The applicable legislation includes in particular RD 1955/2000 and RD 661/2007, according to which these kinds of plants require the following authorisations:

- n Administrative authorisation of the draft project.
- n Approval of the final design.
- n Authorisation for commissioning.

Also, in the case of special scheme plants, the following shall be required:

- n Recognition of status as a special scheme plant.
- n Filing at the registry of special scheme electricity generation plants.

In the case of wind plants, we should note that according to **Foral Decree 125/1996**, the installation of wind farms with an output exceeding 5 MW shall require the following authorisations:

- n **Special Plan** if it is proposed install the wind farm within a single municipal territory.
- n **Supra-municipal Sectoral Project**, where it is proposed to install two or more wind farms or where the land affected thereby belongs to more than one municipality.
- n **Administrative authorisation** of plants.
- n Approval of the **Technical Proposal**.

Where it is proposed to install wind plants for self-consumption or for experimental purposes, it shall be necessary to obtain an authorisation from the Department of Industry and Technology, Trade, Tourism and Labour,

**electricity using renewable energy sources** the following planning authorisations are required:

- n Building permit.
- n Authorisation for activities on non-developable land in the case of plants located on land in that category.
- n Special Plan, as provided in Foral Decree 125/1996, for the installation of Wind Farms where the project affects a single municipality.
- n Supra-municipal Sectoral Project, as provided in Foral Decree 125/1996, for the installation of wind farms where the project affects more than one municipality.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning effect of the proposed plant.
- n Authorisation for activities on non-developable land, depending on the characteristics of the plant and the extent of its location on non-developable land.

**using renewable energy sources and associated facilities** the following environmental authorisations will be required:

- n **Integrated Environmental Authorisation**, where the activity is included in Annexes 2A and 2B of Law 4/2005.

For these purposes, Annex 2A includes industrial plants for the production of electricity, steam and hot water with a thermal output of more than 50 MW and less than 300 MW.

Annex 2B includes the following combustion plants with a thermal output of more than 300 MW:

- Ordinary or special scheme electricity generation plants that burn fossil, waste or biomass fuels.
- Co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by an undertaking, whether or not that is its principal activity.

- n **Authorisation of environmental impact**, where the activity is included in Annex 2C of Law 4/2005.

For these purposes, Annex 2C includes the following energy-related facilities:

- Electricity transmission or distribution lines not requiring environmental impact assessment, including transformer substations.
- Plants for solar energy generation.
- Groups of wind turbines or isolated wind turbines not requiring environmental impact assessment.

According to Foral Order 64/2006 of 24 February 2006, for authorisation for the installation of electricity generation plants using solar energy as their primary power source, whether in the form of photovoltaic solar plants or thermoelectric solar plants, an Authorisation of

following the procedure laid down in RD 1955/2000.

Also, in the case of groups of single photovoltaic plants of less than 100 kW (solar farms), **Foral Order 258/2006** provides that no authorisation shall be required for construction, but an authorisation for commissioning must be obtained pursuant to RD 842/2002 approving the Low-Voltage Electro-technical Regulation.

However, if it is desired to register such plants with the special scheme, the authorisations provided in RD 661/2007 must be obtained (i.e. recognition and filing at the Registry).

In the case of thermal energy generation plants (heating or cooling), we should note that the regulations applicable to such plants (whether the energy produced is intended for industrial use or for building services) do not require prior authorisation for their construction, simply notification to the competent body of the Autonomous Community, which in the case of Navarre, pursuant to Article 2 of Foral Order 424/2009, is the Directorate-General for Enterprise at the Department of Innovation, Enterprise and Employment.

Environmental impact shall first be required, as these come under Annex 2(C)(i) of Foral Law 4/2005.

n **Opening Authorisation**, for start-up of activities requiring an Integrated Environmental Authorisation or Authorisations of Environmental impact.

n **Strategic Environmental Assessment** of Plans and Programmes where these are included in Annex 3A of Law 4/2005.

For these purposes, the said Annex includes Special Plans that do not implement the General Plan and Supra-municipal Sectoral Projects.

n **Environmental Impact Statement**, for projects listed in Annex 3C and for projects in Annex 3B where the environmental body so decides.

For these purposes Annex 3C includes the following projects:

- Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
- Plants which utilise wind power to produce energy (wind farms) having 25 or more wind turbines or which have a layout covering two or more kilometres or are situated less than 2 km from another wind farm.

The Annex also includes the following projects when implemented in specially protected areas:

- Overhead power lines longer than 3 kilometres.
- Wind farms with more than 10 wind turbines.

Annex 3B includes wind farms not included in Annex 3C.

n **Municipal Classified Activity Permit**, for activities included in Annex 4 of Law 4/2005.

For these purposes Annex 4 includes the following activities:

- Hydroelectric power generation plants which also require an Environmental Impact Statement if the environmental body so decides.
- Energy generation plants, including small hydroelectric power stations, not expressly included in other annexes, except for combustion plants with a thermal output of less than 50 MW. These plants shall also require a prior environmental report from the Department of the Environment, Land Use Planning and Housing.

- n **Municipal Opening Permit** for plants requiring a municipal classified activity permit.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Decree 1955/2000 the authorities competent to grant the industrial authorisations required for the construction of electricity generation plants using renewable energy sources and associated facilities are the Administrations listed in Articles 113 and 114 of the above-cited Royal Decree.

According to **Foral Decree 125/1996** of 26 February 1996 regulating the installation of wind farms with an installed capacity of more than 5 MW, administrative authorisation of wind farms is to be processed and granted by the Department of Industry, Trade and Tourism.

Industry, Trade and Tourism shall be the Department competent to grant recognition of special scheme plants and to file such plants at the Registry of Special Scheme Electricity Generation Plants.

According to Foral Decree 68/2003, the same Department shall be competent to authorise the installation of wind

### TOWN PLANNING

The power to grant permits shall lie with the President of the Local Authority unless otherwise stipulated in special provisions or in the relevant By-law.

The Administration competent to grant authorisation for a use or activity on non-developable land shall be the Regional Minister of the Environment, Land Use Planning and Housing.

The body competent to grant final approval of a Special Plan required for installation of a Wind Farm is likewise the Regional Minister of the Environment, Land Use Planning and Housing.

A Supra-municipal Sectoral Project must be approved by the Government of Navarre.

### ENVIRONMENT

According to Law 4/2005 the following Administrations are competent to grant the above-cited authorisations:

- n The Regional Minister of the Environment, Land Use Planning and Housing shall be competent to grant the following authorisations:
  - Integrated Environmental Authorisation.
  - Authorisation of Environmental impact.
  - Determination of whether or not a project requires Environmental Impact Assessment.
  - Environmental Impact Statement.
- n The Department of the Environment, Land Use Planning and Housing is competent to grant the following authorisations:
  - Opening authorisation for plants requiring an Integrated Environmental Authorisation or an

plants for self-consumption or for industrial purposes.

Authorisation of Environmental impact.

- Environmental Effect Statement.
  - Issuance of the report required for granting of certain classified activity permits.
- n The Local Corporations in whose municipal territory it is proposed to locate the classified activity shall be competent to grant:
- Classified activity permit.
  - Opening permit.

## INFORMATION MEASURES

### INDUSTRY

According to the national legislation applicable by default, which is Royal Decree 1955/2000, any application for administrative authorisation of electricity generation plants must be publicised for 20 days, in this case by means of an announcement in the Official Gazette of Navarre and also in one of the largest-circulation daily newspapers of the region.

The authorising decision must likewise be published in the Official Gazette of Navarre and must further be forwarded to the various authorities, bodies, or public service or general interest undertakings as the case may be, which intervened or could have intervened in the process.

We should also note that according to Foral Decree 125/1996, the administrative authorisation for the plant shall be publicised jointly with the Special Plan or the Sectoral Project, by the Department of the Environment, Land Use Planning and Housing.

### TOWN PLANNING

According to Foral Decree 125/1996, for the installation of wind farms the Special Plan must be publicised for 1 month from the date of publication of the announcement of the decision in the Official Gazette of Navarre, by placement of the same announcement in the newspapers published in the Foral Community of Navarre.

In addition, the final approval of the Special Plan must be published in the Official Gazette of Navarre.

According to Foral Law 35/2002, during processing of Supra-municipal Sectoral Projects, the project must be publicised for one month by means of an announcement in the Official Gazette of Navarre.

### ENVIRONMENT

According to Foral Law 4/2005 and Foral Decree 200/2004, the procedures for granting of the environmental authorisations indicated shall be subject to the following public information measures:

- n The procedure for granting of the **Integrated Environmental Authorisation** provides that the application must be publicised for 30 days by means of an announcement in the Official Gazette of Navarre.
- The decision granting or denying the Integrated Environmental Authorisation is likewise to be published in the Official Gazette of Navarre.
- n The procedure for **authorisation of environmental impact** also provides that the application must be publicised for 30 days and that the decision granting or denying the authorisation of environmental affects must be published in the Official Gazette of Navarre in cases of major environmental impact.
- n The procedure for **Strategic Environmental Assessment** provides that this must be publicised along with the plan or project where required.

If not, it shall be publicised by the Department of the Environment, Land Use Planning and Housing by means of an announcement in the Official Gazette of Navarre for 30 days.

- n The **Environmental Impact Study** shall be publicised along with the reports stipulated therein. If no time limit is stipulated in the substantive procedure, it shall be publicised for 30 days by means of an announcement in the Official Gazette of Navarre.

The Environmental Impact Statement must be published in the Official Gazette of Navarre.

- n Regarding the **classified activity permit**, we should note that the decision to submit a project requiring a classified activity permit to environmental impact assessment must be published in the Official Gazette of Navarre (Article 52(2))

In addition, Classified Activities not requiring an environmental impact assessment must be publicised in the Official Gazette of Navarre for 15 days.

The decision granting or denying a classified activity permit not requiring an environmental impact assessment shall be published in the Official Gazette of Navarre and administrative silence shall mean it is denied.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

The procedure for special scheme power generation plants has the same systems of coordination as in the State regulations described, since these are applicable by default.

For instance, in order to process the administrative authorisation, the competent authority must inform the different authorities, bodies, or where applicable public

### TOWN PLANNING

Firstly, with regard to the **building permit**, we should note that according to Article 117(4) of Foral Law 35/2002, the planning permit for execution of the works for an activity or use may only be sought once an authorisation is forthcoming for activities susceptible of authorisation on non-developable land.

In the procedure for **authorisation of activities on non-**

### ENVIRONMENT

We should note in a general way that according to Foral Law 4/2005, in order to implement effective environmental protection, the competent Public Administrations shall ensure that their actions conform to principles of mutual information, cooperation and collaboration. In particular, the requisite assistance must be provided to assure that their actions are effective and coherent, especially in the processing of integrated environmental authorisations,

service or general interest undertakings, of any part of the plant that could affect property or rights for which they are responsible.

Moreover, should it prove necessary to conduct an environmental impact assessment of the plant, this is to be done in conjunction with the public information procedure for the administrative authorisation of the plant. In such cases an Environmental Impact Statement must be forthcoming before the Administrative Authorisation is granted.

According to Foral Decree 125/1996, administrative authorisation for the installation of a **wind farm** may in any case be granted only after approval of the relevant Special Plan or Supra-municipal Sectoral Project.

We should also note that according to Foral Order 258/2006, in the case of non-grouped single photovoltaic plants, or solar farms to be located on non-developable land, for admission to the Special Scheme a report from the Department of the Environment, Land Use Planning and Housing must be submitted substantiating the suitability of the site.

**developable land**, Foral Law 35/2002 provides the following coordination measures:

- n First, it provides that the procedure is to be initiated with the appropriate Local Corporation and concluded by the Regional Ministry of the Environment, Land Use Planning and Housing.
- n A report is also required from the Local Corporation on compliance of the proposed action with the planning.
- n If the action is subject to a Special Plan or Supra-municipal Sectoral Project, this authorisation shall not be necessary.
- n Where the proposed activity requires an Integrated Environmental Authorisation, the procedure shall be as laid down in the regulations governing that authorisation.
- n Finally, we should note that according to Foral Order 64/2006, the installation of solar plants and accesses and connecting power lines on non-developable land shall require an Authorisation of Environmental impact as provided in Foral Law 4/2005, which authorisation shall incorporate the procedure for authorisation of activities on non-developable land.

Regarding processing of the **Special Plan**, we should note that Decree 125/1996 provides the following coordination mechanisms:

- n First, the procedure is to be initiated with the appropriate Local Corporation but finally approved by the Regional Minister of the Environment, Land Use Planning and Housing.
- n In addition, the Municipality is to give a hearing to Councils whose territory may be affected and must forward the Plan to various bodies (in particular the Mancomunidad [association of municipalities for service provision], the Department of Public Works,

environmental impact statements and municipal classified activity permits (Article 4).

Specifically in connection with the various authorisations envisaged in the above-cited Law, we should note that the same Law lays down the following coordination mechanisms:

- n The following mechanisms are provided for processing of the **integrated environmental authorisation**:
  - Firstly, the possibility of pursuing an activity subject to an integrated environmental authorisation is contingent upon the granting of that authorisation, which must be obtained before any of the other authorisations or permits that may be required for the installation and operation of an activity or plant subject to that requirement.
  - In cases where the General State Administration is responsible for drafting the Environmental Impact Statement on the project, the integrated environmental authorisation may only be granted once the said statement has been issued.
  - If an environmental impact assessment is required, the procedure provides that this must be requested before applying for the Integrated Environmental Authorisation if the action requires an Environmental Impact Study.
  - Where an Environmental Impact Study is required, it is to be processed as part of the Integrated Environmental Authorisation procedure.
  - In addition, a report on planning compliance must be obtained from the relevant Local Corporation, and also reports from the municipality following the public information step, and also from any organs of the Administration of the Foral Community of Navarre that may be affected by the project.
- n Regarding processing of the **authorisation of environmental impact**, Foral Law 4/2005 provides the



Transport and Communications, the Department of Agriculture, Livestock and Rural Promotion, the Department of Education and Culture, the Department of the Environment, Land Use Planning and Housing and the Department of Industry, Trade and Tourism.

- n Lastly, we should note that developers may process the classified activity permit for environmental protection along with the Special Plan.

And finally, Foral Law 35/2002 provides the following coordination mechanisms for processing of **Supra-municipal Sectoral Projects**:

- n Firstly, following a report from the Land Use Planning Commission, the Department of the Environment, Land Use Planning and Housing, in coordination with the other Departments affected by the action, presents a proposal for approval or rejection of the supra-municipal effect statement to the Government of Navarre.
- n In addition, the Local Corporations affected by the Project shall be given a hearing during the public information period.

following coordination mechanisms:

- Firstly, the Local Corporation where the plant is to be located must report on the project's compliance with the planning and other aspects within the municipal purview.
- Also, according to Foral Order 64/2006, this procedure is to include processing of the authorisation for activities on non-developable land.

- n We should note that according to Foral Decree 93/2006, during processing of the **Opening Authorisation**, the Department of the Environment, Land Use Planning and Housing must request reports from any organs of the Administration of the Foral Community of Navarre that were involved in processing the grant of the Integrated Environmental Authorisation.

- n We should also note that projects requiring an **environmental impact assessment** may not be authorised or executed without an environmental impact statement first being issued.

- n As regards processing of the classified activities permit we should note that Law 4/2005 provides the following coordination mechanisms:

- Where it needs to be determined whether the activity permit whose authorisation is sought is subject to environmental impact assessment, before the municipal classified activity permit is presented, an enquiry must be submitted to the Department of the Environment, Land Use Planning and Housing to determine whether or not an Environmental Impact Assessment is required.

Where this is required, the procedure is initiated at the Local Corporation and is forwarded to the Department of the Environment, Land Use Planning and Housing before a decision is made.

The latter may request the requisite binding reports

from those bodies of the Administration of the Foral Community with competences by reason of the subject matter.

In addition, this Department must decide on the Environmental Impact Statement before the permit can be granted.

Where in addition it is proposed to locate the activity on non-developable land, a mandatory, binding report must be issued by the Directorate-General of Land Use Planning and Housing.

- In cases where the regulations require a report from the Department of the Environment, Land Use Planning and Housing, before deciding on the activity permit the Local Corporation must first request the said report from that Department.

In these cases, this Department may request mandatory binding reports from any organs of the Foral Administration that have competences by reason of the subject matter.

Likewise, where it is proposed to locate the activity on non-developable land, a mandatory, binding report must be issued by the Directorate-General of Land Use Planning and Housing.

- For all other classified activity permits, where appropriate the Local Corporation shall request a report from the Navarre Health Service's Institute of Public Health on health-related aspects of the activity.

It may also seek reports from the Mancomunidades [associations of municipalities for provision of services] concerned on aspects relevant to the activity.

If there are risks to human health or to the security and safety of persons or property, the Department of the Environment, Land Use Planning and

Housing shall be asked to gather reports from the Departments with competences by reason of the subject matter.

In addition, in cases where the activity is to be located on non-developable land and is considered authorisable, the local authority must process the requisite planning authorisation.

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

The procedure for processing of authorisations required for the construction and commissioning of power generation plants using renewable energy sources is as set out in the national legislation, and therefore we refer to the analysis carried out in connection therewith to determine the procedure that will be followed in the Foral Community of Navarre.

One of the particularities of the authorisation system is the procedure for installation of wind farms, which according to Foral Decree 125/1996 consists of the following steps:

- n Following approval of the appropriate Special Plan or Supra-municipal Sectoral Project
- n An application is submitted requesting administrative authorisation for the plant.
- n After following the procedure laid down in the national legislation, the Administrative Authorisation is issued by the Department of Industry, Trade and Tourism.
- n Once the administrative authorisation is obtained, the technical proposal is submitted to the Department of Industry, Trade and Tourism for approval.
- n Upon conclusion of the procedure laid down in the national legislation, the project is approved and construction of the plant authorised.

### TOWN PLANNING

The procedure for obtaining a **planning permit** is regulated in Article 191 of Foral Law 35/2002, and consists of the following steps:

- n It commences with an application by the interested party.
- n In the case of permits granted by the Local Corporation, a decision must be forthcoming within 2 months of the date of submission of the full documentation at the General Registry. In this case administrative silence is positive.
- n Before the permit is granted, a mandatory report on compliance of the permit requested with the planning must be issued by the Secretary of the Corporation or by the legal services of the Local Authority where there is one.
- n Finally, the permit will be granted by the Local Authority.

However, for exact details of the procedure, it is necessary to examine the regulations laid down in the municipal by-laws.

Foral Law 35/2002 regulates the authorisation of uses and activities on non-developable land, which are classified as follows:

### ENVIRONMENT

The procedure for granting of the environmental authorisations referred to is regulated in Foral Law 4/2005 and Foral Decree 93/2006, and consists of the following steps:

- n The procedure for obtaining the **Integrated Environmental Authorisation** consists of the following steps::
  - First, a report on Planning Compliance must be sought from the Local Corporation. This is binding, so that if it is negative it will terminate the procedure for obtaining an integrated environmental authorisation.
  - In the light of this report, an application for an Integrated Environmental Authorisation will be submitted to the Department of the Environment, Land Use Planning and Housing, along with the documentation laid down in the regulations and the documents listed in Article 20, in particular a favourable planning compliance report.
  - If the documentation accompanying the application is incomplete, the applicant has 10 days in which to correct or complete it.
  - Once the complete documentation is submitted, it will be publicised for 30 days by means of an

It is worth noting that for purposes of processing, the above-cited Decree refers to the national legislation, and therefore the procedure identified when analysing the applicable national legislation applies.

In the case of wind plants for self-consumption and for experimental purposes, we should note that here again Foral Decree 68/2003 refers to the provisions of RD 1955/2000 to determine the procedure for obtaining the authorisation necessary for construction from the Department of Industry and Technology, Trade, Tourism and Labour.

In the case of single or grouped photovoltaic plants with an output of less than 100 kW, we should note that no prior authorisation is required for construction, only an authorisation for commissioning. The procedure for this is as laid down in RD 1663/2000 and in RD 842/2002 approving the Low-Voltage Electro-technical Regulation, according to which the procedure for commissioning is as follows:

- n Once installation is complete and the requisite verifications, and where applicable the initial inspection, have been carried out, the authorised installer shall issue an installation certificate stating that it has been carried out in compliance with the Regulation and supplementary technical instructions, and in accordance with the technical documentation.

Where applicable, it must identify and justify any divergences there may have been in the execution with respect to the said documentation.

- n The certificate, along with technical documentation and where applicable the certificate of works management and initial inspection, must be deposited with the competent body of the Autonomous Community for registration of the installation, with the necessary certified copies for the information of every interested party and to request a

- Permitted: These do not require authorisation of an authorisable activity, although they may require permits or authorisations from other bodies or Administrations.
- Authorisable: These are activities and uses which by their very nature, and in certain conditions, may be compatible with the aims of protecting and preserving non-developable land if they are guaranteed not to conflict with the values or considerations motivating the protection or preservation of the land.
- Prohibited: These are activities or uses which by their very nature are incompatible with the aims of protecting and preserving any category of non-developable land.

Authorisable activities and uses require the authorisation regulated in Article 117 of Foral Law 35/2002, although they may also require permits or authorisations from other bodies or administrations.

The process for obtaining the **Authorisation of authorisable activities on non-developable land** is as follows:

- n The developer submits an application to the Local Corporation where it is proposed to install or carry on the activity.
- n The Local Corporation issues a report concerning the application received, indicating whether it is in compliance with the current planning.
- n Within 2 months, the file must be forwarded to the Department of the Environment, Land Use Planning and Housing.

If the file is not forwarded to the Department of the Environment, Land Use Planning and Housing within 2 months, the developer may apply directly to the

announcement in the Official Gazette of Navarre.

- In addition, reports will be requested from the Local Corporation and the other affected Administrations.
- In the light of the submissions and reports received, the Department will issue a draft decision and invite the comments of the interested parties.
- If there are any submissions, these will be passed on to the bodies competent to issue the reports for comment.
- After considering the submissions received and the conclusions of the binding reports, the Department of the Environment, Land Use Planning and Housing will propose a decision to the Regional Minister of the Environment, Land Use Planning and Housing, who will decide whether to grant or deny the Integrated Environmental Authorisation.

Where the installation is further subject to the Environmental Impact Assessment procedure, this has the following particularities:

- Firstly, in the case of projects included in Annex 2A, it must first be determined whether an Environmental Impact Assessment is required.
- If so, or in the cases listed in Annex 2B, a summary memorandum of the activity must be submitted for the environmental body to determine the scope of the study.
- In the light of the prior consultations an Environmental Impact Study will be drawn up and forwarded to the Department of the Environment, Land Use Planning and Housing, which will decide whether it is adequate.
- If it is adequate, the study will be processed as part of the Integrated Environmental Authorisation procedure.

power supply.

The competent Administrations must make arrangements so that these documents can be submitted and registered by IT or telematic means.

- n Once the certificate has been processed, the plant can be connected and started up.

As noted, the construction of **thermal energy generation plants** likewise requires no prior authorisation; all that is required for commissioning is registration of the installation certificate with the Authorised Control Bodies, for which purpose the documentation regulated in Article 5 of Foral Order 424/2009 must be submitted.

same Department of the Environment.

- n In the case of a use or activity classified for environmental protection, the Local Corporation will forward the above-mentioned file and the file processed in accordance with the regulations governing such classified activities together.
- n Finally, the Regional Minister of the Environment, Land Use Planning and Housing issues a decision, which is notified to the Local Corporation, and to the Council if its territory is affected.

The procedure for processing Special Plans for Wind Farms is regulated in Foral Law 125/1996, and consists of the following steps:

- n It is initiated by the presentation of the Plan at the Local Corporation concerned.
- n The latter will give provisional approval and publicise it for 1 month.
- n Concurrently with the public information, the Municipality will give a hearing to Councils whose territory may be affected and to various bodies (in particular the Mancomunidad [association of municipalities for service provision], the Department of Public Works, Transport and Communications, the Department of Agriculture, Livestock and Rural Promotion, the Department of Education and Culture, the Department of the Environment, Land Use Planning and Housing and the Department of Industry, Trade and Tourism).

If the report is not forthcoming in 2 months, the reporting step is deemed to have been completed and the procedure will continue.

- n Upon conclusion of the above steps, the Special Plan will be approved by the Municipality and forwarded to the Department of the Environment, Land Use Planning and Housing for final approval by the

- n The procedure for obtaining the **Authorisation of Environmental impact** consists of the following steps:

- An optional report can be requested beforehand from the Department of the Environment, Land Use Planning and Housing on the environmental conditions applying to the project by reason of the location and characteristics of the proposed plant.
- The procedure is initiated by an application to the Department of the Environment, Land Use Planning and Housing.
- Once the requisite documentation is complete, the Department will ask the Local Corporation concerned for a report on planning compliance of the project and other aspects falling within the municipal purview.
- At the same time, in cases of major environmental impact the application will be publicised.
- Once these procedures are completed, the case will be decided by the Department of the Environment, Land Use Planning and Housing.

- n The procedure for obtaining the **Opening Authorisation** is as follows:

- An application is submitted to the Department of the Environment, Land Use Planning and Housing, certifying that the works and installations were executed in accordance with the provisions of the integrated environmental authorisation or the authorisation of environmental impact.
- Reports will be requested from any organs of the Foral Community of Navarre that have been involved in processing the Integrated Environmental Authorisation.
- A decision will be made on the opening authorisation in the light of the documentation

Regional Minister as appropriate.

- n Following final approval, it will be published in the Official Gazette of Navarre.

Finally, the processing of the **Supra-municipal Sectoral Project** is regulated in Foral Law 35/2002 and consists of the following steps:

- n The Project developer shall submit it to the Government of Navarre for consideration.
- n In the light of a report from the Land Use Planning Commission the Regional Minister of the Environment, Land Use Planning and Housing, in coordination with the Departments affected, will submit a proposal for approval or denial of the supra-municipal effect statement to the Government of Navarre.
- n If it deems appropriate, the Government of Navarre will categorise the Project as supra-municipal.
- n This decision will be published in the Official Gazette of Navarre. The file will be made available for public information and the Local Corporations will be allowed one month in which to state their views.
- n With the submissions made by the Department of the Environment, Land Use Planning and Housing, the file will be submitted to the Land Use Planning Commission for a report.
- n At the proposal of the Regional Minister of the Environment, Land Use Planning and Housing, the Government of Navarre, if appropriate, will give its approval and may lay down any necessary conditions or corrective measures for better planning.

submitted, of the inspection if there was one, and of the reports received.

- n The procedure for the **Environmental Impact Assessment** is regulated in Chapter II of Foral Law 4/2005, and consists of the following steps:

- Certain projects, in particular those included in Annex 3A, require a preliminary step in which the Regional Ministry of the Environment, Land Use Planning and Housing must determine whether the project requires an environmental impact assessment.
- In addition, in the case of projects included in Annex 3B, a memorandum must be submitted to the environmental body to determine the breadth and level of detail of the Environmental Impact Study.
- Once it is completed, the Study will be submitted to the environmental body to determine whether it is adequate.
- If the study is in order, it will be submitted to the decision-making body for public information and other formalities laid down in the substantive procedure.
- If this step is not required, the Department of the Environment, Land Use Planning and Housing will publicise the environmental impact study.
- The decision-making body will forward the file to the environmental body along with the submissions and the report received in connection with it.
- The Department of the Environment will inform the developer of the submissions and comments received during the public information step for him to make any submissions he deems pertinent.
- After that, a draft Decision on the Environmental Impact Statement will be drawn up and forwarded to

the decision-making body and to the interested party for comment.

- Finally, an Environmental Impact Statement will be issued [?] from the date of admission of the environmental impact study and published in the Official Gazette of Navarre.

n The procedure for issue of an **Environmental Effect Statement** on Plans and Programmes consists of the following steps:

- Preliminary consultations are held with the Department of the Environment, Land Use Planning and Housing regarding the substance and the scope of the Environmental Effect Study.
- In the light of the responses, a study will be conducted and submitted to the Department of the Environment, Land Use Planning and Housing, which will decide whether it is adequate.
- Once the study is declared adequate, it and the other documents comprising the Plan or Programme must go through the public information, reporting and hearing procedures laid down in the applicable legislation.
- If no public information step is envisaged, the Department of the Environment, Land Use Planning and Housing will publicise it by means of an announcement in the Official Gazette of Navarre.
- Upon completion of the procedures, the Department of the Environment, Land Use Planning and Housing will issue an Environmental Effects Statement.

n The procedure for granting a **Classified Activity Permit** is regulated in Foral Law 4/2005 and consists of various steps:

For classified activities requiring an environmental

impact assessment, the steps are as follows depending on the selection criteria:

- Application for a permit accompanied by a summary memorandum of the project.
- The Local Corporation will forward it to the Department of the Environment, Land Use Planning and Housing for it to determine whether it should be subject to an environmental impact assessment, within 15 days of the forwarding date.
- If no decision and notification is forthcoming within that time, it means that the project does not require an environmental impact assessment.

The procedure thereafter will be either the general one or the procedure detailed below depending on whether or not an environmental impact assessment is required.

For classified activities requiring an environmental impact assessment, the procedure is as follows:

- Preliminary consultations to determine the scope of the study.
- When the study is completed, it is submitted to the environmental body to determine whether it is adequate.
- If it is adequate, it will be submitted to the Local Corporation along with the rest of the documents for public information.
- The requisite reports will be issued, including one from the technical services.
- The file will be forwarded to the Department of the Environment, Land Use Planning and Housing, which will request the necessary reports from the other bodies of the Foral Administration.
- Upon completion of the above steps, an Environmental Impact Statement will be issued and



forwarded to the Mayor for a decision on the classified activity permit.

For classified activities requiring a report from the Department of the Environment, Land Use Planning and Housing, the procedure is as follows:

- Submission of application to the Local Corporation.
- Publication in the Official Gazette of the Navarre for 15 days.
- In the light of the submissions received, the Mayor will issue a reasoned report on the installation of the activity in question and forward the file to the Department of the Environment, Land Use Planning and Housing. The latter will then request mandatory binding reports from those bodies of the Administration of the Foral Community of Navarre that are competent by reason of the subject matter in the event that the activity poses risks for the health and safety of humans.
- The Department of the Environment will issue a report on the project prior to the municipal decision. This is binding on the municipal authority if it entails denial of the activity permit or the imposition of additional corrective measures.
- Following the issuance of the above report, the Mayor will decide on the application for an activity permit.

Finally, for a classified activity permit with no prior report from the Department of the Environment, Land Use Planning and Housing, the procedure consists of the following steps:

- Once it is submitted, the application will be publicised.
- The relevant reports will be requested.
- On completion of the above steps, the Local

Corporation will issue a decision.

- n As regards the procedure for obtaining a **Municipal Opening Permit**, Chapter II of Foral Law 4/2005 provides as follows:
  - The owner of the activity submits an application to the Local Corporation along with documentation assuring that the plant is in accordance with the project as approved and incorporates any additional corrective measures that may have been imposed by the activity permit.
  - Decision and notification of granting or denial of a municipal opening permit. This must be forthcoming within a maximum period of 1 month from the date of submission of the application. Administrative silence is positive, except in the case of activities for which the current legislation provides otherwise.

We should note that Foral Order 64/2006 regulates the procedure for installation of **solar energy plants on non-developable land** in the following exceptional cases:

- n A prior Authorisation of Environmental impact will be required in cases included in Annex 2(C)(I) of Foral Law 4/2005, in conjunction with the particularities affecting the authorisation regulated in Article 117 of Foral Law 35/2002, as analysed in the section on “Town Planning” in this study.
- n The application is submitted to the Department of the Environment, Land Use Planning and Housing.
- n Public Information for 30 days. Hearings of interested parties and all Local Authorities that may be affected by the project.
- n Report on planning compliance by the local authority.
- n The developer may make enquiries regarding siting from an environmental and a planning standpoint with the Department of the Environment, Land Use Planning

and Housing.

- n Presentation of a bank guarantee equivalent to the budget of the project for restoration of the environment affected by the works as referred to in Article 5(c) of Foral Order 64/2006.
- n A commissioning and environmental monitoring certificate must be presented to the Department of the Environment.
- n The Department of the Environment will issue an opening authorisation and may propose new measures to eliminate or mitigate any affects detected, with a deadline for execution.
- n The Department of the Environment, Land Use Planning and Housing may require the submission of further environmental monitoring reports and return the guarantee deposit once full compliance is verified.
- n

## TIME LIMIT FOR GRANTING

### INDUSTRY

The regulations laid down by the Foral Community do not specify any time limit for granting of the authorisation. As we have seen, for processing of the authorisations required therein it refers to the provisions of RD 1955/2000.

Consequently, the time limits for granting of the authorisations required both for the installation in general of electricity generation plants and for single and grouped wind or photovoltaic plants with an output of less than 100 kW is as provided in the national legislation. In particular:

- n 3 months to decide and notify the administrative authorisation, starting on the date of submission of the application.

### TOWN PLANNING

According to Article 20 of Foral Law 4/2005, the **planning compliance report**, which must be obtained before applying for an integrated environmental authorisation, must be issued within 30 days.

According to Foral Law 35/2002 the time limit for granting of the authorisations regulated therein is as follows:

- n Two months from the date of submission of the documentation at the General Registry for the Local Corporation to grant a **building permit**.
- If the Local Corporation does not respond within that time, the permit is deemed to be granted by positive administrative silence.

### ENVIRONMENT

According to Law 4/2005 and Decree 93/2006, the environmental authorisations regulated therein must be granted within the following time limits:

- n The **Integrated Environmental Authorisation** must be granted within 10 months of the date of submission of the application.
- If no decision is forthcoming within the maximum time limit, the application shall be deemed to be denied.
- n The **Authorisation of Environmental impact** must be granted within 4 months from the date of submission of the application.
- If no decision is forthcoming within the maximum time

- n 3 months to approve the Final Design.
- n 1 month for the commissioning certificate.

- n Two months from the date of forwarding of the file to the Department of the Environment, Land Use Planning and Housing for granting of an **authorisation for authorisable activities on non-developable land**.

If no decision is forthcoming within that time, the authorisation shall be assumed granted.

- n Four months from the entry of the complete dossier in the registry for approval of **Supra-municipal Sectoral Projects**.

If there is no response within that time, the application is deemed to be denied.

- n Three months from the entry of the complete dossier in the Registry of the Administration of the Foral Community for approval of the **Special Plan**.

If the Local Corporation receives no notice of a decision within that time, the Plan is deemed to be approved.

limit, the application shall be deemed to be denied.

- n The **Opening Authorisation** must be granted within 1 month from the date of submission of the application.

Administrative silence is positive, except in the case of activities for which the current legislation provides otherwise.

- n The **Environmental Impact Statement** must be issued within 6 months of the date of admission of the environmental impact study.

- n The **Environmental Effect Statement** must be granted within the time established for final approval of the Plan or Programme, or failing that within four months from the date of complete submission of the Plan or Programme and the Environmental Impact study.

If no environmental impact statement is forthcoming within that time, the result is deemed to be unfavourable.

- n The **Classified activities permit** must be granted within the following time limits:

- Where an Environmental Impact Statement is required, it must be issued within 4 months, and the permit must be granted within two months of the EIS.

If there is no decision in that time, the permit is deemed to be denied.

- Where a report is required from the Department of the Environment, Land Use Planning and Housing, that report must be issued within two months, and the permit must be granted within 4 months of the date of application.

If there is no decision in that time, the permit is deemed to be denied.

- In all other cases the activity permit must be

granted within a maximum period of 4 months.

If there is no decision in that time, the permit is deemed to be granted by positive administrative silence.

- n The **municipal opening permit** must be granted within a maximum of 1 month from the date of submission of the application.

If no decision is forthcoming within the maximum time limit, the result shall be deemed to be positive.

## FEES

### INDUSTRY

The Public Fees and Prices Act of Navarre, Foral Law 7/2001 of 27 March 2001, provides for the levying of a fee for the provision of industrial, energy, mining and meteorological services, for which the taxable events are, among other services:

- n The administrative authorisation and commissioning of plants for the generation, transmission, distribution and transformation of energy and energy products.
- n Commissioning of energy generation plants which do not require the submission of a project.
- n Granting of special scheme producer status and filing at the Registry of special scheme producers.
- n Plants subject to technical regulation which do not require administrative authorisation.
- n Energy generation plants in receipt of aids for energy plants.

### TOWN PLANNING

We should note that for planning purposes the regional regulations make no provision for the levying of any fee for processing authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the local corporation where it is proposed to locate the plant.

The issuance of a building permit is also subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

### ENVIRONMENT

The Public Fees and Prices Act of Navarre, Foral Law 7/2001 of 27 March 2001, provides for the levying of a fee for the issuance of environmental informative material specifically adapted to the application in question.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

### TOWN PLANNING

### ENVIRONMENT

Foral Order 181/2003 regulating the procedure to be followed in administrative processing for commissioning of low-voltage installations and Foral Order 424/2009 implementing the Regulation for Thermal installations in Buildings both provide that the applicant for an authorisation for commissioning of such installations must be an authorised installer.

# **AUTONOMOUS COMMUNITY OF THE BASQUE COUNTRY**

## AUTONOMOUS COMMUNITY OF THE BASQUE COUNTRY

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, in the Autonomous Community of the Basque Country the following regulatory provisions are in force, which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources.

- n **Decree 282/2002** of 3 December 2002 regulating the procedures for administrative authorisation for the construction, modification and operation of installations, transfer and closure of electricity generation, transmission and distribution plants and consumer supplies, direct lines and connection installations.
- n **Royal Decree 1663/2000** of 29 September 2000 regulating the Connection of Photovoltaic Plants to the Low-Voltage Grid.
- n **Decree 104/2002** of 14 May 2002 finally approving the Sectoral Territorial Wind Energy Plan in the Autonomous Community of the Basque Country.
- n **Decree 115/2002** of 28 May 2002 regulating the procedure for authorisation of wind energy generation plants through Wind Farms in the Autonomous Community of the Basque Country.
- n Industry Act, **Basque Country Law 8/2004** of 12 November 2004.
- n **Order of 11 July 2001** by the Regional Minister of Industry, Trade and Tourism regulating the administrative procedure applicable to certain

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of the Basque Country:

- n Town and Country Planning Act, **Basque Country Law 2/2006** of 30 June 2006.
- n **Law 4/1990** of 31 May. Land Use Planning in the Basque Country.
- n **Decree 105/2008** of 3 June 2008 on Urgent Measures implementing the Town and Country Planning Act, Law 2/2006.
- n Municipal by-laws which may have been enacted by Local Governments.

#### ENVIRONMENT

Besides the national regulations, the following regulatory provisions shall be applicable within the territorial limits of the Autonomous Community of the Basque Country:

- n Environmental Protection Act, **Basque Country Law 3/1998**.
- n **Decree 183/2003** of 22 July 2003. Regulates the procedure for joint environmental impact assessment.
- n Pollution (Integrated Prevention and Control) Act, **Law 16/2002** of 1 July 2002.
- n **Decree 171/1985** of 11 June 1985. Unpleasant, Unhealthy, Harmful and Dangerous Activities. Regulates general technical standards on residential land.
- n **Decree 165/1999** of 9 March 1999 establishing a list of activities exempt from the need for the activity permit regulated in Law 3/1998.



- photovoltaic energy plants.
- n **Order of 26 December 2000** simplifying the Procedure for commissioning of industrial plants.
- n **Order of 22 July 2008** laying down rules in connection with the Regulation of Thermal Installations in Buildings.
- n **Order of 27 July 2009** laying down rules in connection with the Regulation of pressurised equipment.
- n **Law 9/1982** of 24 November 2002 creating the Basque Energy Corporation.

## REGULATORY COMPETENCES

### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

Article 10(11)(a) of the Statute of Autonomy of the Basque Country approved by Organic Law 3/1979 of 18 December 1979 confers exclusive competence on the Autonomous Community of the Basque Country in respect of energy production, distribution and transmission plants where the transmission remains within the Community and its exploitation does not affect another Autonomous Community.

Article 11(2)(c) confers competences for implementing legislation in matters of mining and energy.

### TOWN PLANNING

Article 10(31)(q) of the Statute of Autonomy of the Basque Country approved by Organic Law 3/1979 of 18 December 1979 confers exclusive competences on the Autonomous Community of the Basque Country in respect of land use and coastal planning, town planning and housing.

### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 11(1)(a) of the Statute of Autonomy of the Basque Country approved by Organic Law 3/1979 of 18 December 1979 confers competence on the Autonomous Community of the Basque Country for implementing legislation and execution in matters of environmental protection and ecology.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable

### TOWN PLANNING

We are not aware of any proposal to amend the applicable

### ENVIRONMENT

We are not aware of any proposal to amend the applicable

regulations.

regulations.

regulations.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

Pursuant to Decree 282/2002, the authorisation of electricity generation, transmission and distribution plants for which the Autonomous Community of the Basque Country is competent shall require the following authorisations:

- n **Administrative Authorisation**, referring to the preliminary design for the plant.
- n **Approval of the Final Design** referring to the specific project, which allows the owner to build or install the plant.
- n **Operating authorisation** whereby plants can be powered up and commence commercial operation once the project is completed.

These authorisations are required for the plants listed in Groups I and II of this Decree. Group I includes ordinary scheme generation plants and their power transmission lines, transmission facilities and distribution facilities with a rated voltage of over 30 kW, and any plant not included for which a public utility declaration is sought or which requires an individualised environmental impact assessment.

Group II covers special scheme generation plants and their power transmission lines, distribution facilities with a rated voltage of 30 kW or less, facilities for connecting a consumer to the transmission or distribution grid, direct lines and generally lines for a consumer's exclusive use and extension facilities.

However, the following are excluded from Decree 282/2002 and hence do not require administrative authorisation: (a) electricity generation, transmission and

### TOWN PLANNING

For the construction of plants for generation of electricity using renewable energy sources and associated facilities the following planning authorisations are required:

- n Building Works Planning Permit.
- n Declaration of special interest of the action if located on non-developable land.
- n Special Plan where plants are located on non-developable land and further require an individualised environmental impact statement, and for plants affecting a surface area of more than 5000 m<sup>2</sup>.

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following authorisations, depending on the planning impact of the proposed plant.

### ENVIRONMENT

For the construction of plants for generation of electricity using renewable energy sources and associated facilities the following environmental authorisations will be required:

- n **Environmental Report on plans and programmes** (for the Environmental Assessment regulated in Annex I(A) of Law 3/1998, this report is required for Sectoral Territorial Plans (like the Wind Plan) and Special Plans that affect non-developable land.
- n **Environmental Impact Statement** (part of the Individualised Environmental Impact Assessment procedure) in the cases listed in section B3 of Annex I of Law 3/1998, provided that it is proposed to install the plant in the Autonomous Community of the Basque Country.

For the purposes of this report, Annex 1(B) includes the following plants:

- Hydroelectric power stations and attached facilities.
- Energy generation, transmission and distribution infrastructure projects.
- Wind Farms and photovoltaic energy plants connected to the grid with output exceeding 100 kW.

- n **Activity Permit and Opening Permit** in the cases listed in Annex II of Law 3/1998. This section includes energy generation plants in general.
- n **Integrated Environmental Authorisation** where required by the Pollution (Integrated Prevention and Control Act), Law 16/2002, discussed in the analysis of

distribution plants within the competence of the General State Administration and (b) plants with a rated voltage of 1 kV or less, unless a public utility declaration is sought for them.

These authorisations shall not be required for provisional electricity generation plants.

In the case of **Wind Farms**, provided that they constitute a plant consisting of one or more wind turbines with an installed capacity of 500 kW or more, electrically interconnected by means of their own grids, sharing the same access and control structure, with their own metering and connection to the general grid, administrative authorisations shall be governed by **Decree 115/2002** and shall require the following industrial authorisations:

- n Selection of competing Draft Projects.
- n Administrative Authorisation of the basic project.
- n Project approval.
- n Commissioning certificate.

Aside from the above authorisations, if it is wished to register generation plants with the special scheme, the following authorisations are also required:

- n Status as a special scheme plant.
- n Filing at the Registry of Special Scheme Generation Plants.

Solar photovoltaic plants with a rated output not exceeding 100 kW and with a low-voltage connection to the distribution grid do not require authorisation for construction; all that is required is commissioning pursuant to the Order of 11 July 2001.

As regards thermal energy generation plants (heating, cooling or ventilation) we should note that according to the applicable legislation, an authorisation is not required for the construction of these plants (whether installed in

the national legislation.

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources will require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

buildings or intended for industrial purposes), and it is sufficient to notify the competent body in the Autonomous Community before they are put into service.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to Decree 282/2002, competence to grant authorisations in the name of the Autonomous Community of the Basque Country shall be exercised by the Directorate of Energy at the Department of Industry, Trade and Tourism.

Consequently, in accordance with the provisions of the Decree, the Administrations competent to grant industrial authorisations are:

- n The Directorate of Energy is responsible for granting administrative authorisation of the draft project and approval of the project and for granting the plant special scheme status and filing it at the Registry of Special Scheme Production Plants.
- n The Territorial Office of Industry, Trade and Tourism is responsible for issuing commissioning certificates for plants.

According to Decree 115/2002 the Administration competent to grant the authorisations required for installation of electricity generation plants using wind energy in the form of wind farms including the commissioning certificate where the plant affects more than one Historic Territory, is the Directorate of Energy.

In all other cases the commissioning certificate for wind farms is to be issued by the appropriate Territorial Office.

As regards photovoltaic plants connected to the low-voltage grid, as regulated in the Order of 11 July 2001, we should note that the Administration competent to process commissioning shall be the appropriate Territorial Office of

### TOWN PLANNING

The administration competent to grant a building permit shall be the **Local Corporation** of the municipality where the plant is to be sited. In particular, competence for granting the permit shall lie with the municipal body designated in the local legislation (Article 209, Law 2/2006).

The body competent to grant a declaration of public interest in respect of an action, when it is located [?], is the appropriate Foral Deputation.

If a Special Plan is necessary, the body competent to grant it shall be the appropriate Foral Deputation in the case of municipalities with 3 000 or fewer inhabitants, and the particular Local Corporation in all other cases.

Finally, we should note that the Sectoral Territorial Plan (required for installation of wind plants) must be approved by the Basque Government.

### ENVIRONMENT

According to Law 3/1998 the following Administrations are competent to grant the environmental authorisations provided therein:

- n The environmental body of the Autonomous Community of the Basque Country for issuance of the Environmental Report on Plans (Joint Environmental Impact Assessment), for issuance of the Environmental Impact Statement (Individualised Environmental Impact Statement) and for issuance of the Integrated Environmental Authorisation.
- n The foral bodies in the historic territories shall be competent to issue the Environmental Impact Statement (Individualised Environmental Impact Statement) in cases where substantive competence for project authorisation lies with those bodies, except where the project it is proposed to implement extends beyond the limits of one or affects more than one historic territory, in which case the foral bodies shall be guaranteed the opportunity to intervene.
- n The Local Corporations concerned shall be competent to grant the requisite activity permit and opening permit.

## INFORMATION MEASURES

### INDUSTRY

According to Decree 282/2002, the procedure for the industrial authorisations necessary for installation of an electricity generation plant using renewable energy sources is subject to the following information measures:

Applications for administrative authorisation shall be subject to public information for a period of 20 days by means of an extract announcement in the Official Gazette of the Historic Territory where the plant is to be located and in the Official Gazette of the Basque Country.

- n If the project requires an environmental impact assessment, this shall be publicised jointly with the above application.

In the case of plants affecting more than one Historic Territory, the announcement in the Official Gazette of the Basque Country must be arranged by the Territorial Office in whose territory the plant is to be sited. If the administrative authorisation and the public utility declaration are applied for at the same time, both must be publicised together.

- n In addition, the decision regarding administrative authorisation must be published in the Official Gazette of the Historic Territory where the plant is sited and in the Official Gazette of the Basque Country.

In the case of **electricity generation plants using wind energy**, **Decree 115/2002** provides for the following information measures:

- n Firstly, the Administrative Authorisation must be published for twenty days in the Official Gazette of the Basque Country and the Official Gazette of the

### TOWN PLANNING

According to Decree 105/2008, declarations of public interest of energy generation plants to be located on non-developable land must be publicised for a period of twenty days.

If a Special Plan is required, Law 2/2006 provides that following initial approval, the plan must be publicised for a period of twenty days by means of an announcement in the Official Gazette of the Historic Territory to which the municipality belongs, and in the largest-circulating newspaper in the territory.

### ENVIRONMENT

According to Law 3/1998 and Decree 183/2003, the Joint Environmental Impact Assessment procedure includes the following public information measures:

- n The joint environmental impact assessment study shall be publicised along with the Plan considered therein by the decision-making body concerned.

This public information shall be required even in cases where the Plan is not subject to mandatory public information.

- n The environmental report that is issued is to be published in the appropriate official gazette along with the decision finally approving the Plan.

Law 3/1998 provides for the following public information measures in the Individualised Environmental Impact Assessment procedure:

- n Public information for a period of 1 month.
- n In addition, the environmental impact statement is to be published in the Official Gazette of the Basque Country and/or of the historic territory concerned.

This law further provides that any Decision whereby the Basque Government, on a reasoned basis, exempts any of the projects cited in Annex I from the Environmental Impact Assessment procedure, must be published in the Official Gazette of the Basque Country.

Also, according to Article 16 of Decree 16/2002, the **Integrated Environmental Authorisation** is to be publicised for thirty days. In addition, once a decision is made, it is to be notified to the authorities that reported on the application and

Historic Territories concerned in order to allow the submission of competing preliminary designs.

- n Once a preliminary design has been selected, the administrative authorisation and the environmental impact study will be publicised together for one month by publication in the Official Gazette of the Basque Country and the Official Gazette of the Territory.

to the interested parties.

Finally, we should note that according to Law 3/1998, applications for classified activity permits must be publicised for 15 days by means of an announcement in the Official Gazette of the Historic Territory concerned and by personal notification to neighbours in the immediate vicinity of the place where it is proposed to locate the activity.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

According to **Decree 282/2002**, the procedure for obtaining the necessary industrial authorisations and permits for construction of electricity generation plants using renewable energy sources and associated facilities includes the following coordination mechanisms:

- n Firstly, if necessary it is to be processed along with the Administrative Authorisation and the Environmental Impact Study.
- n In addition, Administrative Authorisation cannot be granted until the requisite Environmental Impact Statement is forthcoming.
- n And again, during the publicising of the administrative authorisation application, authorities, bodies or public service or general interest undertakings must be informed of any part of the plant that could affect property or rights for which they are responsible so that they can express their assent or objection to the plant.
- n Following submission of the application for the project, the procedure thus regulated requires that these Administrations be asked for their opinions on

### TOWN PLANNING

According to Law 2/2006 (Article 213), the integration of the classified activity permit, the opening permit, the environmental impact assessment and the planning permits regulated in Law 2/2006 shall be governed by the provisions of the General Protection of the Environment Act, Law 3/1998 of 27 February 1998.

During the processing of Special Plans, the municipality must notify the decision on initial approval to the district administrative committees affected to receive their reports within twenty days; one of the reports required is that of the Land Use Planning Commission of the Basque Country.

In addition, final approval of these Plans is the responsibility of the foral deputation in the case of municipalities of 3 000 or fewer inhabitants.

### ENVIRONMENT

The procedure for processing of the Joint Environmental Impact Assessment of Plans regulated in Decree 183/2003 includes the following of inter-administration coordination mechanisms:

- n Firstly, a preliminary environmental impact report must be requested on the advance planning document.
- n In addition, a final report must be requested before final approval.
- n During processing, hearings must be given and reports requested as laid down in the current legislation for processing of the kind of Plan concerned.

With regard to processing of the Individualised Environmental Impact Assessment, we should note that Law 3/1998 provides the following coordination mechanisms:

- n Firstly, it must be processed along with the substantive project examined in the Study.
- n The requisite environmental impact statement must be forthcoming before final approval of the substantive project; however, if the EIS is not forthcoming within the

the proposed technical considerations.

The procedure for authorisation of Wind Farms set out in **Decree 115/2002** lays down the same coordination measures but provides that the Administrations to which the project must be forwarded for comment on the technical considerations must include the Local Corporations concerned and the Foral Deputations that are affected.

maximum time limit allowed for a decision, the procedure may continue.

- n The environmental impact statement shall be binding as regards the measures and conditions for execution of the project and as regards whether or not the action is desirable.
- n The Law further provides that any disagreements that may arise among the competent bodies in the processing of the Individualised Environmental Impact Assessment shall be settled by the Government of the Autonomous Community of the Basque Country, or where appropriate by the Foral Deputation concerned.

Law 16/2002 provides that an Integrated Environmental Authorisation shall not be granted without a prior Environmental Impact Statement. The procedure for granting of this Integrated Environmental Authorisation takes the place of the procedure for granting a permit for a classified activity except for the decision by the Local Corporation.

Lastly, in connection with the processing of the activity permit we should note that according to Law 3/1998, Local Corporations may not grant building permits for classified activities until such time as an activity permit has been granted (Article 61).

In addition, during the processing of the permit, a mandatory and binding health report must be obtained, and also any municipal technical reports and other reports that may be necessary according to the nature of the activity, and before the permit can be granted, the environmental body of the Autonomous Community or the competent foral body must issue a report stipulating any corrective measures required for the activity.

## PARTICULAR CASES IN PROCESSING

INDUSTRY

TOWN PLANNING

ENVIRONMENT

According to Decree 282/2002, the procedure for authorising the electricity generation plants listed in Group I and Group II of this Decree is as follows:

#### Step I. Administrative Authorisation

- n The procedure is initiated when the interested party submits an application at the Territorial Industry, Trade and Tourism Offices of the Historic Territory where the plant is to be installed.
- n The application will be publicised for 20 days along with the Environmental Impact Study if the project requires an environmental impact assessment.
- n Any submissions received shall be passed on to the applicant, who shall have 15 days in which to make any submissions he sees fit and so advise the Territorial Industry, Trade and Tourism Office.

- n Any submissions received shall be forwarded to Administrations and bodies any part of whose property and rights may be affected by the plant. They are allowed 20 days to make any submissions.

If they do not respond to the request, they are allowed a further 10 days to make these submissions. Failure to respond within this period shall be interpreted as assent to the installation.

- n Any submissions received from those Administrations shall be passed on to the applicant, who shall have 15 days in which to state whether he accepts or objects to them.
- n If he states any objections, these shall be passed on to the Administrations or bodies who made the submissions, and the latter shall have 15 days in which to state their assent or objections to those responses.

Failure to raise any objections within the given time shall be interpreted as assent to the applicant's

The procedure for granting of a **Planning Permit** shall be regulated by the relevant municipal by-laws, which must adhere to the rules laid down in Law 2/2006, and generally consists of the following steps:

- n It is initiated when the interested party makes an application, which must be accompanied by the documentation listed in Article 210 of Law 2/2006.
- n Once the application is submitted, the Local Corporation passes it on to the other authorities affected for them to report on the aspects for which they are competent.
- n Before the permit is granted, the municipal services must issue a mandatory report on the compliance of the permit applied for with the planning legislation.
- n Finally, the Local Corporation will deliver a decision.

However, for exact details of the procedure, it is necessary to examine the regulations laid down in the municipal by-laws.

A **Declaration of Public Interest** in respect of plants located on non-developable land must first be publicised for 20 days, after which the Foral Deputation shall issue the declaration.

The processing of a **Special Plan**, where one is necessary for installation on non-developable land, is regulated in Law 2/2006, and consists of the following steps:

- n The Special Plan shall be submitted and the Local Corporation must decide whether to grant or deny initial approval.
- n Once initial approval is granted, the Plan will be publicised and the relevant reports requested. These include one from the Land Use Planning Commission of the Basque Country.
- n In the light of the submissions received, the Local

The procedure for obtaining an **Environmental Statement in Joint Environmental Impact Assessment procedures** is regulated in Decree 183/2003, and consists of the following steps:

- n It is to be processed by the body competent to draw up the plan, following the same procedures as required for the plan examined in the Study.
- n Before drawing up the Plan, this body must first request a preliminary environmental impact report, for which it has two months.
- n Then, once the Study is complete, it shall be publicised along with the Plan examined in it.
- n Upon conclusion of the public information formality, the body competent to grant final approval of the Plan shall request a final environmental impact report from the environmental body of the Autonomous Community of the Basque Country or the appropriate foral body, before granting approval.
- n The competent body shall have two months in which to issue its final report. The procedure may continue even if no report is forthcoming in the given time.

The procedure for obtaining an **Environmental Impact Statement** (part of the Individualised Environmental Impact Assessment procedure) is regulated in Law 3/1998, and consists of the following steps:

- n The Environmental Impact shall be publicised along with the project examined in it.
- n Once the public information step is concluded, the decision-making body will forward the file to the competent environmental body for the latter's Environmental Impact Statement.

As regulated in Law 3/1998, the essential steps in the procedure for obtaining an **Activity Permit** are as follows.

- n The procedure is initiated by the submission of an



response.

- n Finally, following these actions, the Directorate of Energy shall decide on the application for administrative authorisation, provided that an Environmental Impact Statement has been issued if one is required.

#### Step II. Approval of the final design.

- n The developer shall apply for approval of the final design to the Territorial Industry, Trade and Tourism Office.
- n The application shall be forwarded to the Administrations affected, which shall be given 20 days in which to specify any technical conditions.
- n If any conditions are specified, they shall be passed on to the applicant, who shall have 15 days in which to state his assent or any objections.
- n If the applicant raises any objections, these shall be passed on once more to the Administrations affected, which shall have 15 days in which to accept or reject these.  
  
If the Administration issues no further objections regarding the conditions within the given time, it shall be deemed to accept the applicant's response to the conditions.
- n Upon conclusion of the above steps, the Directorate of Energy shall proceed to issue its decision as appropriate.

These steps may be carried out in conjunction with the application for administrative authorisation and concluded in a single decision.

#### Step III: Authorisation to Operate Commissioning

Corporation shall grant provisional approval subject to any appropriate modifications.

If substantial modifications are required, the project shall be partially redrafted and resubmitted for initial approval and public information.

If the Local Corporation is competent to make the final decision, no provisional approval shall be required and final approval shall be granted directly.

- n If the competent body is the Foral Deputation, the Local Corporation shall forward the file within ten days of provisional approval for a final decision.

According to the Sectoral Territorial Wind Energy Plan of the Basque Country, the plants envisaged therein do not need to be declared public utilities, nor does any special plan need to be approved.

However, where wind plants are not contemplated in the Sectoral Territorial Wind Energy Plan of the Basque Country, the installation thereof shall be subject to the land legislation.

Where plants of this kind that are not provided for in the Territorial Plan are to be located on non-developable land, before a permit can be granted, it shall be necessary to obtain the administrative authorisation specified in the planning legislation for plants classified as public utilities or of social interest that are to be sited on this category of land.

application following an enquiry at the Local Corporation regarding technical and legal requirements for the permit and any corrective measures.

- n If the activity is in compliance with the planning, it shall be publicised and notified to all neighbours affected by the activity.
- n All necessary reports shall be requested and issued, including a public health report.
- n In the light of the result of the public information step and the above reports, the Local Corporation shall issue a reasoned report on establishment of the activity within 10 days.
- n The Local Corporation shall request a report from the environmental body of the Autonomous Community or from the foral body, stipulating corrective measures. This must be forthcoming within 15 days and shall be binding on the municipal authority if it is contrary to granting of the permit or if it stipulates corrective measures.
- n Finally, the Local Corporation shall make the decision.

However, this procedure is replaced by the individualised environmental impact assessment procedure where the plant for a classified activity is also subject to this environmental assessment process.

The procedure for granting of the **Opening Permit** is regulated in Law 3/1998, and consists of the following steps:

- n It is initiated when the applicant gives notice of compliance with the measures stipulated in the activity permit.
- n The municipal services must conduct an on-the-spot inspection within 15 days of such notification.
- n In this inspection, a favourable report may be issued if it shows that the plant complies with the project and the corrective measures stipulated. In that case the Local

#### **Certificate.**

- n Once the project is complete, the owner shall submit an application for commissioning to the appropriate Territorial Industry, Trade and Tourism Office.
- n Once the application and works management certificate have been processed, the plant may be put into service provisionally.
- n The commissioning certificate shall be issued by the Territorial Industry, Trade and Tourism Office within 1 month, following whatever technical checks may be deemed advisable.

In the case of **electricity generation plants using wind energy** the procedure for obtaining an administrative authorisation is regulated in **Decree 115/2002**, and is as follows:

- n It is initiated when the interested party submits an application for Administrative Authorisation to the Territorial Industry, Trade and Tourism Office in the Historic Territory concerned or to the Directorate of Energy at the Department of Industry, Trade and Tourism if the Wind Farm affects more than one Territory.
- n This application will be publicised to allow competing applications, from among which the Directorate of Energy will select the most suitable preliminary design, on a reasoned basis, and issue a Decision to that effect.
- n Once the most suitable preliminary design has been chosen, its owner shall forward the documentation listed in Article 7 of Decree 115/2002 to the Directorate of Energy or the appropriate Territorial Office within 6 months of the day following notification of the Decision (inter alia, the Basic Project and the Environmental Impact Study).
- n The Administration shall publicise this documentation

Corporation will issue an opening permit.

- n If not, the Local Corporation will ask for the shortcomings to be remedied.

Finally, we should note that the procedure for obtaining an **Integrated Environmental Authorisation** has not been regulated by the Autonomous Community, and hence we remit to the national legislation as mentioned in this section (i.e. Law 16/2002).

for a period of 1 month and at the same time shall request the affected Local Corporations, Foral Deputations and other Administrations and Bodies to stipulate any requisite conditions.

- n Once the public information step is concluded and reports and submissions have been received, the Territorial Office of the Directorate of Energy will forward the file to the environmental body for preparation of an Environmental Impact Statement.
- n Once the Environmental Impact Statement is forthcoming, the Directorate of Energy will issue a Decision granting the Administrative Authorisation within a maximum of 1 month following receipt of the file.
- n Thereafter, approval of the project will be requested, and once it is executed a Commissioning Certificate will be applied for.

The procedure for commissioning of **low-voltage photovoltaic plants** is regulated in the Order of 11 July 2001, and consists of the following steps:

- n Once the plant is built, the owner shall apply to the appropriate Territorial Industry, Trade and Tourism Office for authorisation to commission the plant and file it at the Registry of Special Scheme Production Plants
- n If the plant does not require an installation project, the Certificate issued by the installer will be stamped and the plant can be put into service.
- n If a project is required, the Territorial Office must issue the commissioning certificate. If within 15 days it has not requested corrections or additions to the application, it shall be deemed to be in compliance with the requirements for commissioning.
- n Thereafter, the Directorate of Energy will file it at the

Registry.

Lastly, we should note that commissioning of all other electricity generation plants connected to the low-voltage grid, and likewise thermal energy generation plants using renewable energy sources, is subject to the provisions laid down in the Order of 26 December 2000 as referred to by the order of 22 July 2008 (rules in connection with the Regulation of Thermal Installations in Buildings) and the Order of 27 July 2009 (rules in connection with the Regulation of Pressurised Equipment).

- n According to this, the commissioning of such plants shall require submission of the documentation required in the applicable regulations to the competent body.
- n When submitted, the application will be examined by this body, which will if necessary request corrections or additions to the documentation submitted.
- n In the light of the documentation, the competent body will issue the commissioning certificate.
- n If the competent body issues no decision within 15 days of submission of the documentation, it shall be assumed that the formalities prescribed for commissioning of the plant have been complied with.

## TIME LIMIT FOR GRANTING

### INDUSTRY

In accordance with **Decree 282/2002**, the time limits for obtaining the authorization regulated therein are as follows:

- n Six months for Administrative Authorisation for Group I plants, from the date of submission of the administrative authorisation, unless the plant required an environmental impact estimation, in which case the time limit will be calculated from the date of

### TOWN PLANNING

The planning permit must be granted within the time limit laid down in the relevant municipal by-laws.

However, it shall be deemed to be granted if the interested party receives no notification within the maximum time limit allowed to decide, counting from the date of submission of the application.

Subsidiarily, where not stipulated in the application regulation, the maximum time limit for notification of an

### ENVIRONMENT

According to Law 3/1998, the environmental authorization regulated therein must be granted within the following time limits:

- n In the case of the Joint Environmental Impact Assessment, the final environmental impact report must be issued within two months from the date of reception of the file.

The processing of the plan shall not be interrupted if no

completion of that estimate (administrative silence means denial).

For Group II plants the time limit shall be three months and administrative silence shall likewise mean denial.

- n The decision on approval of the Final Design must be forthcoming within 1 month of the expiry of the time limits for submissions granted in response to the conditions stipulated by the Administrations. Here again, administrative silence means denial.
- n The commissioning certificate shall be issued within 1 month, following whatever technical checks may be deemed advisable.

As for the authorisations necessary for the installation of Wind Farms, Decree 155/2002 lays down the following time limits:

- n One month for selection from among competing Preliminary Designs.
- n One month for granting of the Administrative Authorisation for plants as from the forwarding date of the Environmental Impact Statement.

For granting of the commissioning certificate for plants not requiring prior authorisation for construction, according to the Order of 26 December 2000 the maximum time limit for granting of the certificate shall be 15 days from the date of submission of the application as long as no corrections or additions are required. Administrative silence is positive.

express decision is 3 months from the date of submission of the permit application absent any municipal requirement for corrections or additions (Article 210).

The time limit for approval of the Special Plan shall be 6 months from the date of the initial approval for provisional or final approval at municipal level.

If final approval is the competence of the Foral Deputation, the time limit for a decision is two months from the date of entry of the file.

If no decision is forthcoming within those time limits, approval shall be deemed to be denied.

report is forthcoming within that time.

- n Four months from reception of the file for issuance of the Environmental Impact Statement in the case of an Individualised Environmental Impact Assessment. This time limit shall be one month if the public information was carried out by the decision-making body.

The procedure may continue even if no express decision is forthcoming within that time.

- n Six months for granting of the Activity Permit.

If the Local Corporation does not issue an express decision within 6 months of formal application for an activity permit, it shall be deemed granted (by positive administrative silence) except in cases where the environmental body of the Autonomous Community or the competent foral body has given notice of an unfavourable report and this is pending implementation by the Local Corporation concerned.

- n Ten months from the date of application for granting of the Integrated Environmental Authorisation.

If no decision is forthcoming within that time, the application shall be deemed denied by virtue of administrative silence.

## FEES

### INDUSTRY

The applicable legislation for industrial purposes is Legislative Decree 1/2007 of 11 September 2007

### TOWN PLANNING

Regarding urban planning matters, we should note that no fees have been established at regional level for processing

### ENVIRONMENT

For environmental purposes we should note that **no fee is payable** on the processing of either the Environmental

approving the Consolidated Text of the Public Fees and Prices Act of the Autonomous Community of the Basque Country.

Title IV of that Decree regulates Industrial and Agricultural Fees, in respect of which the taxable events include activities which require administrative authorisation for commissioning.

The taxable event for these fees arises when the services constituting it are provided. However, they may be payable at the time the application is submitted or the file initiated.

of the authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the local corporation where it is proposed to locate the plant.

The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.

Impact Assessment or the Integrated Environmental Authorisation.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

For low-voltage electrical installations, it is necessary to submit certain documents prepared by the authorised installer.

According to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm. These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation for pressurised equipment requires that the documentation submitted for commissioning be issued by an authorised installation firm.

### TOWN PLANNING

### ENVIRONMENT

# **AUTONOMOUS COMMUNITY OF THE PRINCIPALITY OF ASTURIAS**

## AUTONOMOUS COMMUNITY OF THE PRINCIPALITY OF ASTURIAS

### APPLICABLE RULES

#### INDUSTRY

Besides the State regulations, which are basic, in the Autonomous Community of the Principality of Asturias the following regulatory provisions are in force, which regulate the authorisations, permits and licences that need to be secured to set up electricity generation plants using renewable energy sources, associated facilities and thermal energy production (heating and/or cooling) installations using renewable energy sources.

**Decree 43/2008** of 15 May 2008 on Procedures for authorisation of wind farms in the Principality of Asturias..

#### TOWN PLANNING

The following regulatory provisions shall be applicable within the territorial limits of the Principality of Asturias:

- n **Decree 42/2008** of 15 May finally approving the Land Use Planning Sectoral Guidelines for exploitation of wind energy.
- n **Legislative Decree 1/2004** of 22 April 2004 approving the Consolidated Text of the Legal Provisions In Force on matters of Town and Country Planning (TROU).
- n **Decree 278/2007** of 4 December 2007 approving the Town and Country Planning Regulation of the Principality of Asturias.
- n Municipal by-laws which may have been enacted by Local Governments.

#### ENVIRONMENT

Aside from the State regulations, the following regulatory provisions are applicable within the territorial limits of the Autonomous Community of the Principality of Asturias:

- n **Law 5/1991** of 5 April 1991 on Protected Nature Areas in Asturias.
- n **Decree 38/1994** of 19 May 1994 approving the Natural Resources Plan (PORN).
- n **Law 12/1984** of 21 November 1984 empowering the Governing Council to delegate the function of the Environment Agency to report on unpleasant, unhealthy, harmful and hazardous activities to the Local Corporations.
- n **Decree 139/1984** of 12 December 1984 delegating functions of the Environment Agency relating to unpleasant, unhealthy, harmful and hazardous activities to the Councils.
- n **Decree 2414/1961** of 30 November 1961 approving the Regulation of Unpleasant, Unhealthy, Harmful and Hazardous Activities.

### REGULATORY COMPETENCES

#### INDUSTRY

The **Spanish State** is competent to lay down the basic rules on matters of energy, but not to regulate authorisation procedures, which are the competence of the Autonomous Communities.

#### TOWN PLANNING

Article 10(1)(3) of the Statute of Autonomy of the Principality of Asturias approved by Organic Law 7/1981 of 30 December 1981, as set out in Organic Law 1/1999 of 5 January 1999, confers exclusive competence on the **Principality of Asturias** in respect of land use planning,

#### ENVIRONMENT

The **Spanish State** is competent to lay down the basic rules on matters of environmental protection.

Article 11(5) of the Statute of Autonomy of the Principality of Asturias approved by Organic Law 7/1981 of 30 December



Article 10(1)(32) of the Statute of Autonomy of the Principality of Asturias approved by Organic Law 7/1981 of 30 December 1981, as set out in Organic Law 1/1999 of 5 January 1999, confers exclusive competence on the **Principality of Asturias** in respect of energy production, distribution and transmission plants where the transmission remains within the Principality and its exploitation does not affect another Autonomous Community.

Article 11(6) gives the Autonomous Community powers to implement and enforce legislation regarding energy matters.

town planning and housing.

1981, as set out in Organic Law 1/1999 of 5 January 1999, confers competence on the **Principality of Asturias** in respect of environmental protection, including industrial and pollutant waste discharges into rivers, lakes and inland waters and additional environmental protection regulations.

## REVIEW OF THE APPLICABLE REGULATIONS

### INDUSTRY

We are not aware of any proposal to amend the applicable regulations.

### TOWN PLANNING

We are not aware of any proposal to amend the applicable regulations.

### ENVIRONMENT

We are informed by the Regional Ministry of the Environment of the Principality of Asturias that a law on environmental intervention is in preparation which will probably repeal Decree 38/1994 as regards matters relating to Environmental Impact Assessment and referring to the national legislation on the subject.

## ADMINISTRATIVE AUTHORISATIONS REQUIRED

### INDUSTRY

Regarding electricity generation plants and associated facilities using renewable energy sources, we should note that at regional level only the installation of wind energy production has been regulated, and therefore the national legislation is applicable by default to authorisation for the construction of such plants.

The applicable legislation includes in particular RD 1955/2000 and RD 661/2007, according to which these kinds of plants require the following authorisations:

- n Administrative authorisation of the draft project.

### TOWN PLANNING

For the construction of electricity generation plants the following planning authorisations will be required:

- n **Municipal building permit.**

Where plants are located on non-developable land, they may require one or more of the following authorisations:

- n **Prior Authorisation of Use**, where plants are located on non-developable land that the General Plan may treat as authorisable, even if the planning for the action is carried out in the form of an

### ENVIRONMENT

For the construction of electricity generation plants the following environmental authorisations will be required:

- n **Environmental Impact Statement**, in the cases envisaged in national legislation. In addition, regional legislation specifically regulates the need for an EIS for installation of a wind farm (Decree 43/2008) and for installation of other combustion plants with a thermal output of 300 MW or more (section 7(2) of the PORN).

Also, Environmental Impact Assessment is required for changes of land use that entail removal of bush or tree

- n Approval of the final design.
- n Authorisation for commissioning.

Also, in the case of special scheme plants, the following shall be required:

- n Recognition of status as a special scheme plant.
- n Filing at the Registry of Special Scheme Generation Plants.

According to Decree 43/2008, the following authorisations must be obtained for the installation within the territorial limits of the Principality of Asturias of wind farms with an installed capacity of 50 MW or less, provided that their exploitation does not affect any other Autonomous Community:

- n Decision selecting the proposed project.

For the installation of wind energy generation plants, a tender procedure must be initiated to select the most suitable proposal.

No such procedure shall be required for the installation of publicly-owned wind farms for self-consumption or for expansions or repowering of existing wind farms, or wind farms for research purposes, provided that such exclusion is requested from the Regional Minister responsible for energy matters.

- n **Administrative Authorisation of plants.** Such authorisation implicitly recognises that the activity of these plants will be considered special scheme production, unless the owner also engages in ordinary scheme production activities.
- n **Approval of the Final Technical Design.**
- n **Commissioning certificate** permitting start-up of the plants once the project is executed.

Installation Study, and provided that competence in this respect has not been delegated to Local Corporations or local authorities

- n **Installation Study** to authorise installation on non-developable land of activities, equipment or facilities of public or social interest whose characteristics are such as to necessitate siting in a rural environment, provided that they are located in areas of non-developable land where the protective regulations do not directly or indirectly prohibit them.

Where the General Plan does not expressly contemplate installation of the activity, equipment or facility concerned, an Installation Study will be required before authorisation can go forward. In that case the municipal permit will suffice for authorisation.

According to Articles 200 and 201 of Decree 278/2007, energy generation plants are considered actions of public or social interest.

- n **Special Plan**, where it is necessary to run an Installation Study and the proposed use appears to be incompatible with the General Plan or Land Use planning is required.
- n **Structural Impact Assessment**, required for actions in connection with elements of territorial structure defined in Article 3 of Decree 278/2007 (inter alia energy generation and transmission infrastructures).

According to **Decree 42/2008** finally approving the Land Use Planning Sectoral Guidelines for exploitation of wind energy, installation of such plants shall require the following planning authorisations:

- n **Municipal Permit**, no further formalities required if the permitted uses on the non-developable land where the plant is to be located include the installation of a wind farm (Art. 123(1) of the TROTU),

cover and pose a potential risk for infrastructures of general interest to the Nation, and in any case where such changes affect areas of more than 100 hectares.

- n **Preliminary Environmental Impact Assessment.** This assessment is required for electricity transmission lines with a rated voltage of over 1 kV and hydroelectric power stations.
- n **Integrated Environmental Authorisation**, where required by the national legislation (Pollution (Integrated Prevention and Control) Act, Law 16/2002).
- n **Classified activity permit**, where the activity is classified and the national legislation so requires (Decree 2414/1961 of 30 November 1961 approving the Regulation of Unpleasant, Unhealthy, Harmful and Hazardous Activities).

Depending on the purpose of the energy produced (industrial or domestic use), **thermal energy generation plants** using renewable energy sources require the authorisations mentioned above if the industrial use for which the thermal energy is produced or the characteristics of the plant so dictate.

According to Annex I of Law 16/2002, an integrated environmental authorisation is required for combustion plants with a heat output of more than 50 MW (co-generation plants, boilers, furnaces, steam generators or any other combustion equipment used by the undertaking, whether or not that is its principal activity.).

Such plants shall also require recognition of their status as special scheme plants and filing at the appropriate registry in cases where the plant belongs to the special scheme.

Low-voltage electricity generation plants are regulated by Royal Decree 842/2002, whereunder an authorisation is not required for their construction, only for Commissioning.

Finally, in the case of **thermal energy generation plants** (heating and/or cooling), we should note that the rules applying to this kind of plant (either where the energy produced is intended for industrial use or else where it is intended to supply services in buildings) do not require an authorisation prior to construction, but only notification to the competent body of the Autonomous Community.

and in cases of low-power wind devices in the conditions laid down in the general planning of each municipality (Guideline 51 of Decree 42/2008).

- n If the installation of a wind farm for self-consumption is an authorised use, it will further be necessary to obtain a **Prior Authorisation** (prior to the municipal permit), to be granted by the Town and Country Planning Commission of the Principality of Asturias or the Local Corporation concerned if the competence has been delegated), (Articles 123 and 131 and following of the TROTU).
- n The installation of wind farms shall require approval of a **Special Plan**, which must define the planning conditions for its construction (Guidelines 28 and 31 of Decree 42/2008), except for wind farms for self-consumption)
- n However, in all cases it is considered reasonable to require the drafting and approval of an **Installation Study** (Arts. 200 and following of Decree 278/2007 in relation to Art. 128 of the TROTU).
- n The procedure for the Wind Farms regulated in Decree 43/2008 shall not require a Structural Impact Assessment (Guideline no 12 of Decree 42/2008).

The construction of thermal energy generation plants (heating and/or cooling) using renewable energy sources shall require the following planning authorisations:

- n Building permit, depending on the planning impact of the proposed plant.
- n Any other authorisations required for the installation of use on non-developable land, depending on the characteristics of the plant and the extent of its location on non-developable land.

## AUTHORITIES COMPETENT TO GRANT THE REQUIRED AUTHORISATIONS

### INDUSTRY

According to the Regional Ministry of Industry and Employment's Decision of 3 August 2007, the Directorate-General of Mining and Energy shall be competent to grant administrative authorisations in connection with electricity generation, transmission and distribution plants, and where applicable approval of the project and commissioning thereof, including Special Scheme energy production.

This Decision delegates competences to the Directorate-General of Industry for the granting of administrative authorisations in connection with gas installations, heating, petroleum products and cooling installations, and where applicable for approval of projects and commissioning thereof.

According to Decree 43/2008 , the **Regional Ministry responsible for energy** is competent to deal with the authorisations necessary for the installation of wind plants.

### TOWN PLANNING

The authority competent to grant planning permits is the **Local Corporation** of the municipality where the plant is located.

The authority competent to issue a preliminary authorisation for uses on non-developable land is the Town and Country Planning Commission of the Principality of Asturias, unless that competence has been delegated to the municipal authority (Art. 131 of the TROTU).

The authority competent to approve the Special Plan shall be:

- n Generally, the appropriate Local Corporation, subject to a prior binding report from the Town and Country Planning Commission of the Principality of Asturias (Art. 90(3) of the TROTU).
- n The appropriate Local Corporation, subject to a non-binding report from the Town and Country Planning Commission of the Principality of Asturias in the case of Special Plans implementing a PGOU (Art. 89(3) of the TROTU).

The authority competent to approve Installation Studies is the appropriate Local Corporation, subject to a non-binding report from the Town and Country Planning Commission of the Principality of Asturias (Art. 90(5) of the TROTU).

The competent territorial body in respect of the Structural Impact Assessment is the Town and Country Planning Commission of the Principality of Asturias, and the body with substantive competence is the authority responsible for granting the authorisation for the plant (Art. 118 Decree 278/2007).

### ENVIRONMENT

The authority competent to grant the Environmental Impact Statement and the Integrated Environmental Authorisation is the Regional Ministry responsible for environmental matters.

The environmental body competent to decide on the Preliminary Environmental Impact Assessment shall be the competent environmental body of the Administration that grants the permit or approves the material implementation of the project.

The authority competent to grant the activity permit shall be the Local Corporation of the municipality where the plant is to be sited.

## INFORMATION MEASURES

### INDUSTRY

According to the national legislation applicable by default, which is Royal Decree 1955/2000, any application for administrative authorisation of electricity generation plants must be publicised for 20 days, in this case by means of an announcement in the Official Gazette of the Principality of Asturias and also in one of the largest-circulation dailies of the region.

The authorising decision must likewise be published in the Official Gazette of the Principality of Asturias and must further be forwarded to the various authorities, bodies, or public service or general interest undertakings as the case may be, which intervened or could have intervened in the process.

The procedure laid down in Decree 43/2008 for the granting of authorisations to build and operate wind farms, provides for the following information measures:

- n Firstly, the Administrative Authorisation application for a wind farm must be announced in the Official Gazette of the Principality of Asturias so that any interested parties may submit competing applications, for which they have one month from the date of publication.
- n The Decision announcing the selection from among the competing applications shall be published in the Official Gazette of the Principality of Asturias (Art. 10).
- n Also, the application submitted for administrative authorisation is to be publicised for the purpose of submissions for a period of thirty days by means of an extract announcement in the Official Gazette of the Principality of Asturias and in the regional press (Art. 15).

### TOWN PLANNING

Firstly, as regards the processing of the building permit, we should note that according to the applicable planning regulations the Local Corporation concerned is obliged to report the granting of the permit to the Regional Ministry responsible for matters of town and country planning (Art. 230 of the TROTU).

As regards the procedure for granting of a Prior Authorisation of Use, we should note that according to the applicable planning regulations the application must be publicised for 15 days by publication in the Official Gazette of the Principality of Asturias in cases of activities which are not prohibited or incompatible but are not expressly classified as permitted or authorisable.

For purposes of Installation Studies and Special Plans, the planning regulations define the following information measures:

- n Public information for one month by means of an announcement in the Official Gazette of the Principality of Asturias and at least in one of the largest-circulation newspapers in the Autonomous Community.
- n Personal notification to landowners whose property is affected by the instrument concerned.
- n In addition, decisions granting final approval must be published in the Official Gazette of the Principality of Asturias.

Lastly, as regards processing of the Structural Impact Assessment, we should note that the procedure laid down in the applicable regulations requires that the study be publicised along with the project for the activity to be authorised, for the same length of time (Art. 120 Decree 278/2007). Also, the Structural Impact Statement must be

### ENVIRONMENT

According to Legislative RD 1/2008, the Environmental Impact Study must be publicised jointly with the project examined therein.

In addition, this Legislative RD provides that the Environmental Impact Statement that is issued must be published in the Official State Gazette.

Decree 38/1994 provides that the Preliminary Environmental Impact Assessment application is to be publicised for 15 days by means of an announcement in the Official Gazette of the Principality of Asturias.

In addition, the report delivered by the competent environmental body on the Preliminary Environmental Impact Assessment is to be passed on to the Regional Ministry of the Environment and Town Planning.

Also, according to Article 16 of Decree 16/2002, the Integrated Environmental Authorisation is to be publicised for thirty days. In addition, once a decision is made, it is to be notified to the authorities that reported on the application and to the interested parties.

According to Decree 2414/1961, in the case of unpleasant, unhealthy, harmful or hazardous activities the activity permit is to be publicised for ten days.

The Environmental Impact Study must be publicised as part of this procedure.

- n Finally, the Decision authorising the installation of the wind farm must also be published in the Official Gazette of the Principality of Asturias (Art. 18(1)).

published in the Official Gazette of the Principality of Asturias.

## INTER-ADMINISTRATION COORDINATION

### INDUSTRY

The procedure for special scheme power generation plants has the same systems of coordination as in the State regulations described, since these are applicable by default.

Among others there is a rule whereby in order to process the administrative authorisation, the competent Administration must inform the different authorities, bodies or, where applicable, public service or general interest undertakings, of any part of the plant that could affect property or rights for which they are responsible.

Moreover, should it prove necessary to conduct an environmental impact assessment of the plant, this is to be done in conjunction with the public information procedure for the administrative authorisation of the plant. In such cases an Environmental Impact Statement must be forthcoming before the Administrative Authorisation is granted.

**Decree 43/2008** provides for the following coordination mechanisms in the procedure for authorisation of wind plants:

- n We should note first of all that according to the Regional Ministry of Industry and Employment's Decision of 24 June 2009, competing applications for wind plants must be examined by an Assessment Commission made up of various members of the Regional Ministry of Industry and Employment.

### TOWN PLANNING

Firstly, as regards the procedure for granting of the works planning permit we should note that the regulations provide the following coordination mechanisms:

- n Where owing to the nature of the act requiring a planning permit a sectoral authorisation is required from a body other than the one to which the application is addressed and follows a separate procedure, the granting of the first shall be independent of the granting of the second. The Local Corporation shall not be obliged to require that they be granted beforehand, but the permit will be conditional upon such sectoral authorisations being obtained unless the applicable sectoral rules provide otherwise.
- n Where owing to the nature of the act requiring a planning permit reports or authorisations are required from bodies other than the one to which the application is addressed but must be kept in the same file for granting, the permit may not be granted if such reports are not included in the application file or are not deemed to be favourable.
- n In addition, a building permit may not be granted unless a prior authorisation is first obtained for use on non-developable land.
- n Again, where any environmental formality or structural impact statement is required, the permit may not be granted until these are issued, and it may

### ENVIRONMENT

Aside from the coordination mechanisms provided in the basic national legislation for processing of the environmental impact assessment, Decree 278/2007 provides that the **environmental impact assessment** procedure must be concluded prior to the main procedure applicable to the authorisation of the activity, plan or programme that is to be assessed.

As regards the Preliminary Environmental Impact Assessment, Law 5/1991 provides that the Environment Agency must issue a report on the primary results of the preliminary assessments, which are to be forwarded to the body competent by reason of the subject matter. Also, any differences that may arise between the Environment Agency and the body competent by reason of the subject matter shall be settled by the Governing Council.

Law 16/2002 provides that an Integrated Environmental Authorisation shall not be granted without a prior Environmental Impact Statement. The procedure for granting of this Integrated Environmental Authorisation takes the place of the procedure for granting a permit for a classified activity, except for the decision by the Local Corporation.

In addition, the procedure for both the Integrated Environmental Authorisation and the classified activity permit requires certification of planning compliance by the Local Corporation in whose territory it is proposed to install the plant, pursuant to Art. 45 bis of the TROTU.

- n The Decision requires that the application be submitted along with a planning report from the Local Corporation(s) affected regarding the possible installation of the wind farm within their municipal limits.

If the report is unfavourable, regardless of when it is issued as long as the Autonomous Community receives it before the administrative authorisation is granted, the body competent in matters of energy shall issue a reasoned decision terminating the procedure and shelving the actions in so far as they concern the municipal area affected by the negative report, and the procedure shall continue in the other municipalities if any.

- n In addition, once the selected applicant has submitted the complete documentation for the project, the Regional Ministry responsible for energy must forward it to the body competent in environmental matters for the latter to determine what aspects should receive particular attention in the environmental impact study.
- n In turn, the Regional Ministry responsible for industrial matters must forward any of the documentation submitted by the applicant that affects property, installations, works or services, centres or areas dependent on other administrations to each of the Administrations, bodies, entities or departments, and where applicable public or general interest service undertakings, whose competences, property or services could be affected, giving them a maximum of two months in which to issue a report.
- n Also, upon conclusion of the public information period for the documentation furnished by the applicant, the Regional Ministry of Energy must forward this along with any submissions received and any pertinent comments, to the Regional Ministry responsible for environmental matters for the latter to draw up the

not be granted if these are unfavourable.

As regards the Prior Authorisation of Use, we should note that the procedure as regulated provides the following coordination mechanisms:

- n Firstly, the procedure is initiated at the Local Corporation and the application, with reports from the municipal legal and technical services, must then be forwarded to the Town and Country Planning Commission of the Principality of Asturias for a decision.
- n A prior Authorisation must further be obtained before the building permit can be granted, in cases involving non-developable land.

As regards processing of the **Special Plan** and the **Installation Study**, the procedure laid down in the planning regulations establishes the following coordination measures:

- n Both must first be approved by the Local Corporation and require a report from the Town and Country Planning Commission of the Principality of Asturias.
- n The project must also be submitted to environmental assessment, which will be processed as part of the procedure for the Plan or Study.

Therefore, before approval, the file must be forwarded to the Regional Ministry responsible for environmental matters, which will issue an Environmental Memorandum.

As to the processing of **Structural Impact Studies**, we should note that the applicable regulations provide the following coordination mechanisms:

- n Once the public information period is concluded, the decision-making body must forward to the Town and Country Planning Commission of the Principality of Asturias the project, the Environmental Impact Study,

environmental impact statement.

- n Lastly, we should note that before approval of the Project, the Special Plan must be approved in accordance with the planning legislation.

the submissions, suggestions and reports, a technical assessment of these and whatever comments it deems appropriate with regard to the structural impact assessment.

- n Again, once the requisite documentation is received, the Town and Country Planning Commission must request a report from the Investment and Planning Committee and any others that it deems appropriate in each case.
- n The Town and Country Planning Commission of the Principality of Asturias shall draw up the structural impact statement and notify the decision-making body accordingly. This statement shall be binding upon the decision-making body if it is negative or stipulates corrective or countervailing measures.
- n And lastly, we should note that in the event of differences between the territorial body and the decision-making body as to the desirability of executing the action or on the content of the conditions in the structural impact statement, the Regional Minister responsible for town and country planning shall submit the file to the Governing Council so that the latter may decide in cases where the State Administration is not competent to decide the outcome of the substantive procedure.

Lastly, we should note in connection with the processing of Wind Farms that according to Decree 43/2008 the application for authorisation to install a wind farm must be accompanied by a planning report from the Local Corporation(s) affected. If the report is negative, the Autonomous Community shall terminate the actions (Article 9 (1)(b)).

Again, according to Decree 42/2008 if the farm is visible from any Property of Cultural Interest, the body competent in such matters shall conduct a specific assessment to delimit the radius of vision in proportion to the importance



of the Property (Guideline 11).

## PARTICULAR CASES IN PROCESSING

### INDUSTRY

The procedure for processing of authorisations required for the construction and commissioning of generation plants is as set out in the national legislation, and therefore we refer to the analysis carried out in connection therewith to determine the procedure that would be followed in the Principality of Asturias.

However, the procedure for Wind Farms is the one laid down in Decree 43/2008, and consists of the following steps:

- n **Step 1 (Project selection):** This step is initiated when the interested parties submit an application for a wind farm to the Regional Ministry responsible for energy matters.

The application must be publicised by means of an announcement in the Official Gazette of the Principality of Asturias to allow the submission of competing applications.

Following the submission of applications, these will be assessed in conjunction with the Assessment Commission, and a decision will be made by the Regional Minister responsible for energy matters following a hearing of the interested parties.

If no decision is forthcoming within six months, the application shall be deemed to be denied.

This step is only necessary in cases so requiring pursuant to Decree 43/2008.

- n **Step II (Administrative Authorisation).** The successful applicant shall have one month to forward the complete documentation for the project to the Regional Ministry responsible for energy matters,

### TOWN PLANNING

The applicable legislation makes no provision for a specific procedure to suit the nature of the plant it is proposed to build, the technology used or its capacity; the procedure for obtaining these authorisations is the general one laid down in the local regulations (Art. 229 of the TROTU).

Firstly, as regards the procedure for granting planning permits, the planning legislation refers to the provisions applicable to Local Authorities, but it does lay down the following basic rules for processing:

- n Application shall be made to the appropriate Local Corporation.

- n Before a decision is made on the application, technical and legal reports must be issued by the appropriate services of the Local Corporation, or where applicable by the Territorial Planning Offices responsible for determining the compliance of the project with the planning and territorial legislation and any other applicable rules.

If the Local Corporation does not possess such services and is not registered with a Territorial Planning Office, the reports must be requested from the Town and Country Planning Commission of the Principality of Asturias.

- n Any reports that are needed from bodies belonging to or associated with the Local Authority concerned must be requested simultaneously in a single act and only once.

- n Where reports or authorisations are required from other Administrations and are not attached to the application, the Corporation must request them for

### ENVIRONMENT

The applicable legislation makes no provision for a specific procedure to suit the nature of the plant it is proposed to build, the technology used or its capacity; the procedure for obtaining these authorisations is the general one laid down in that legislation.

Firstly, as regards processing of the **Environmental Impact Assessment**, the regulations refer to the procedure provided in the basic national legislation, and therefore we refer to the terms of the national procedure.

As regards the **Preliminary Environmental Impact Assessment**, according to Article 12 of Law 5/1991, the entities promoting the plant shall be responsible for carrying out the study, while the competent environmental body shall be responsible for deciding on it. The decision must be issued within not more than 20 days, and the Regional Ministry of the Environment and Town Planning is to be informed of the Primary Decision.

The environmental body shall have 20 days in which to report on the primary results of the preliminary assessments that are forwarded to it and to send them on to the body that is competent by reason of the subject matter. Administrative silence shall be interpreted in a positive sense.

Any differences that may arise between the Regional Ministry of the Environment and Town Planning and the body competent by reason of the subject matter shall be settled by the Governing Council.

As regards the procedure for the **Integrated Environmental Authorisation**, we should note that this again has not been implemented by the Autonomous Community, and therefore the provisions of the national legislation, whose particularities have been noted, shall apply and to these we refer in this

along with the Environmental Impact Study.

The Regional Ministry in turn shall forward these to the body competent in environmental matters, which shall indicate the most significant aspects to be taken into account in the environmental impact study.

Once the body competent in environmental matters has indicated the most significant aspects to be taken into account in the environmental impact study, the applicant shall have six months to forward its application for approval of the technical project and other documentation necessary pursuant to Article 14(2) of Decree 43/2008 to the Regional Ministry responsible for energy matters.

The application submitted and the accompanying documents must then be publicised for a period of thirty days by means of an extract announcement in the Official Gazette of the Principality of Asturias and in the regional press.

At the same time the documentation must be forwarded to administrations, bodies, entities or departments, and where applicable public or general interest service undertakings that may be affected, which shall have two months to issue a report. If no report is forthcoming in that time, it shall be assumed that there are no objections.

In the light of any submissions, the Regional Ministry responsible for energy matters shall advise the applicant of its acceptance or any objections, and of any submissions made in the public information step, and the applicant shall have fifteen days to accept these or state any objections of his own.

If the applicant has any objections, these shall be passed on to the Administration or body that objected, and the latter shall have one month in which to state their assent or objections to this response. If there are no further objections within the

issue within the time limit laid down in the sectoral regulations, and within a maximum of two months. Upon expiry of that time, the reports shall be assumed to be positive or the authorisations to have been issued, unless the applicable legislation provides otherwise.

As to the processing of **prior authorisation of uses**, we should note that according to the planning regulations, the procedure is as follows:

- n The application must be submitted to the appropriate local authority, which will do all the processing and will determine whether it is competent in its own right or by delegation, and if not it will forward the file to the Town and Country Planning Commission of the Principality of Asturias for a decision.
- n Public information for a period of fifteen days by means of publication in the *Official Gazette of the Principality of Asturias* will be mandatory for applications in respect of actions which are not considered prohibited or incompatible uses but are not expressly listed as permitted or authorisable in the planning.

The public information will be conducted by the body competent to decide.

- n Where the power to authorise lies with the Local Corporation, the authorisation and the permit may be granted in a single act, provided that the decision addresses all the issuances implicit in the two procedures.
- n If the competent body is the Town and Country Planning Commission the Local Corporation must forward the application along with the technical and legal report issued by its municipal services.
- n The prior authorisation of use shall be decided upon conclusion of the public information procedure.

section (i.e. Law 16/2002).

Finally, the procedure for granting of an **Activity Permit** refers in turn to Decree 2414/1961 of 30 November 1961 in cases where the activity is considered unpleasant, unhealthy, harmful or hazardous, and consists of the following steps

- n The developer submits an application to the Local Corporation.
- n Upon examining the application the Local Corporation will decide either to reject it or process it.
- n If it decides to proceed, it shall publicise the application and request reports from the Head of the Local Health Authority and from the competent municipal technical departments according to the nature of the business.
- n Once the file is complete, it shall be forwarded to the Provincial Technical Services Commission, which shall grade the application and assess the reliability and effectiveness of the proposed corrective systems.
- n If the Commission rejects these systems, it shall give the applicant a hearing and take the appropriate final decision.
- n Once that decision is made, the file shall be returned to the Local Corporation for it to issue a permit as specified in the Commission's decision.

given time, the applicant's response to the conditions shall be deemed to be accepted.

Upon conclusion of the public information step, the entire file shall be forwarded to the Regional Ministry responsible for environmental matters, which shall draw up the requisite Environmental Impact Statement.

Once the EIS is received by the Regional Ministry responsible for energy matters, the Minister shall issue a decision on the authorisation requested for the plants concerned, which decision shall be notified to the interested parties and published in the Official Gazette of the Principality of Asturias

The decision authorising the plants shall include the grant of special scheme production plant status

- n **Step III (Project Approval):** The applicant must submit an application for approval of the Project.

For purposes of approval, the requisite Special Plan must first be approved in accordance with the planning legislation.

Upon conclusion of these steps, the Regional Minister responsible for energy matters shall have one month to issue a decision on approval of the final design, which must state the period of time in which it is estimated that the plant will be built.

- n **Step IV (Commissioning certificate):** Within the time limit set for construction in the decision approving the final design, the owner of the wind farm shall request the Regional Ministry responsible for energy matters to issue a commissioning certificate for the plant.

Following the requisite technical checks, the Regional Minister responsible for energy matters shall draw up the final commissioning certificate. Commissioning

As regards processing of the **Special Plan**, we should note that the procedure consists of the following steps:

- n If the Special Plan implements the General Planning of the municipality concerned, interested private individuals may submit proposals therefor. They are to be processed in the same way as provided in the planning regulations for a PGOU (Art. 89).

If the Special Plan does not implement the general planning, the proposals submitted by private individuals must take into account prior reports by the municipal services and must be accepted by the Administration (Art. 79 of the TROTU).

- n Plans shall be initially approved by the Local Corporation and publicised.
- n Upon conclusion of the public information, the Town and Country Planning Commission of the Principality of Asturias shall be requested to issue a report on the application. The Commission shall have two months in which to issue the report. Upon expiry of that time limit, the procedure may continue.
- n In addition, if an environmental instrument has to be approved, such approval must be requested from the Regional Ministry responsible for environmental matters before the Special Plan can be approved, the procedure for which shall be suspended pending approval of the environmental instrument.
- n Once the environmental instrument is approved, following delivery of the report by the Town and Country Planning Commission of the Principality of Asturias or once the time limit for its delivery has expired, the Local Corporation shall decide on the application for approval of the Special Plan.

This procedure shall likewise be applicable to **installation studies**.

Finally, the procedure for approval of the **Environmental**

may be completed in one or more steps if necessary.

And lastly, we should note that the Autonomous Community has not regulated the commissioning of low-voltage electrical installations or thermal installations, and therefore the national regulations apply as explained earlier.

**Impact Study** shall be as follows (Article 117(3)(c) and Art. 119 and following of Decree 278/2007):

- n The procedure shall be initiated by submission of the Study along with the action project to the decision-making body.
- n Where the procedure for authorisation by the decision-making body requires a period of public information, the structural impact study shall be processed along with the project, in the same way and for the same period of time.

If the procedure for authorisation by the decision-making body does not require a period of public information or this has already been completed, the decision-making body shall publicise the structural impact study for a period of one month.

- n Once the public information period is concluded , the decision-making body must forward to the Town and Country Planning Commission the project, the Environmental Impact Study, the submissions, suggestions and reports, a technical assessment of these and whatever comments it deems appropriate with regard to the structural impact assessment.
- n Once that period is concluded, the decision-making body must forward to the Town and Country Planning Commission the project, the Environmental Impact Study, the submissions, suggestions and reports, a technical assessment of these and whatever comments it deems appropriate with regard to the structural impact assessment.
- n Once the requisite documentation is received, the Town and Country Planning Commission must request a report from the Investment and Planning Committee and any others that it deems appropriate in each case.
- n Once that report is issued, the Town and Country

Planning Commission of the Principality of Asturias shall draw up the structural impact statement and notify the decision-making body accordingly.

This statement shall be binding upon the decision-making body if it is negative or stipulates corrective or countervailing measures.

- n In the event of disagreements between the territorial body and the decision-making body as to the desirability of executing the action or on the content of the conditions in the structural impact statement, the Regional Minister responsible for town and country planning shall submit the file to the Governing Council so that the latter may decide in cases where the State Administration is not competent to decide the outcome of the substantive procedure.
- n The structural impact statement shall be published by the issuing body in the Official Gazette of the Principality of Asturias.

## TIME LIMIT FOR GRANTING

### INDUSTRY

The time limit for granting of the industrial authorisations required for the installation of electricity generation plants using renewable energy sources and connected facilities is that provided in Royal Decree 1955/2000, analysed earlier, which is applicable by default (3 months from the date of submission of the application to issue and notify a decision. The same time limit for approval of the Final Design, and 1 month for the Commissioning certificate).

In accordance with **Decree 43/2008**, the time limits for obtaining the authorization regulated therein are as follows:

- n Six months for selection of a competing project. If no selection is made in that time the applications shall

### TOWN PLANNING

According to the TROTU, the time limits for approval of **Special Plans** shall be as follows:

- n Two months from the date of entry of the complete documentation in the Municipal Registry for granting or denial of initial approval for Special Plans. If no decision is forthcoming in that time, provisional approval shall be deemed to be granted (Art. 80).
- n Two months for a decision on final approval as from the conclusion of the public information period, or from reception of the report from the Town and Country Planning Commission of the Principality of Asturias where one is necessary. If no decision is forthcoming in that time, approval shall be deemed to

### ENVIRONMENT

According to Legislative RD 1/2008, the time limit for drafting of the **Environmental Impact Statement** shall be three months from the date the file is forwarded by the body responsible for approving the substantive project.

The environmental body shall have 20 days in which to issue a report on the primary results of any **preliminary environmental impact assessments** forwarded to it. Administrative silence shall be interpreted in a positive sense.

The time limit for the granting of the **Integrated Environmental Authorisation** shall be 10 months as from the date of application. If no decision is forthcoming within that time, the application shall be deemed to be denied by

be deemed to be denied

- n Six months to obtain an **Administrative Authorisation for plants**. If no decision is forthcoming in that time, the authorisation shall be deemed to be denied.
- n One month for **approval of the final design**, as from the date of approval of the Special Plan (Art. 21(1)). If no decision is forthcoming in that time, the application for approval shall be deemed to be denied.
- n The **final commissioning certificate** must be issued within one month following the appropriate technical checks (Art. 24).

be granted (Art. 80(4) of the TROTU).

These time limits likewise apply to approval of the **Installation Study**.

The time allowed the Town and Country Planning Commission of the Principality of Asturias to issue and notify a **structural impact statement** to the decision-making body is one month from the date of the report from the Investment and Planning Committee.

If no notice of the structural impact study submitted is received within that time, the Town and Country Planning Commission of the Principality of Asturias shall be deemed to have accepted the impact study submitted by the owner or developer of the activity, and in its decision the decision-making body must address all the corrective and countervailing measures and the monitoring programme envisaged therein.

virtue of administrative silence.

The time limit for granting of the **classified activity permit** shall be four months from the date of application. If no decision is forthcoming within that time, a complaint about the delay may be lodged simultaneously with the Local Corporation and the Provincial Technical Services Commission, and the permit may be assumed to be granted by virtue of administrative silence upon the elapse of two months from the date of the complaint.

## FEES

### INDUSTRY

The applicable legislation for industrial purposes is Legislative Decree 1/1998 of 11 June 1998 approving the Consolidated Text of the Public Fees and Prices Act of Asturias and the update thereof contained in the Decision of the Regional Ministry of Economy and Finance of the Principality of Asturias of 22 February 2010.

This Legislative Decree introduces a fee in matters of industry and mining, in respect of which the taxable event is the filing, registration or authorisation to operate, registration of changes of ownership, periodic inspections, closure declarations, dismantling and control of:

- n Electricity generating stations, power lines, substations and transformer stations, and gas grids.
- n Electrical, water and fuel installations in non-industrial, non-residential buildings.

### TOWN PLANNING

Regarding urban planning matters, we should note that no fees have been established at regional level for processing of the authorisations granted by the Autonomous Community.

However, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible, and for processing private-initiative plans.

One must therefore look to the regulations in each municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind. Fees will vary depending on the Local Corporation where it is proposed to locate the plant.

Therefore, one must look to the regulation established under the **by-laws of each municipality**.

### ENVIRONMENT

For environmental purposes we should note that no fee is payable on the processing of either the Environmental Impact Assessment or the Integrated Environmental Authorisation.

However, the cost of publication of the requisite announcements in the Official Gazettes shall be borne by the developer of the project, pursuant to Legislative Royal Decree 1/1998 of 11 June 1998 approving the Consolidated Text of the Public Fees and Prices Act of Asturias and the update thereof contained in the Decision of the Regional Ministry of Economy and Finance of the Principality of Asturias of 22 February 2010.

Also, municipalities can regulate the charging of fees for processing the planning permits and licences for which they are responsible.

One must therefore look to the regulations in each

The base used to determine the quota shall be the budget for machinery, equipment and installations, to which the percentage detailed in the above-cited Act shall be applied (Arts. 36 and following).

The tariff shall be payable at the time the service is provided, but it may be required at the time of application.

**The issuance of a building permit is subject to payment of the Building, Installation and Works Tax levied by the Local Corporation concerned.**

Notwithstanding the foregoing, in respect of equipment or facilities of local public interest, a category that includes the installations necessary to produce energy and other public-interest environmental installations, Article 128 of the TROTU provides that the Installation Study or the PGOU shall establish a charge to be levied on the developer of the installation, payable before the permit is granted, in an amount not to exceed 5% of the value of the project.

In addition, Article 121 of Decree 278/2007 provides that the cost of publication of the Structural Impact Statement in the Official Gazette of the Province of Asturias shall be borne by the developer of the action.

municipality to determine whether a fee is chargeable for the issuance of authorisations for the installation of plants of this kind.

## SPECIFIC TRAINING FOR MANAGERS

### INDUSTRY

According to RD 1027/2007 approving the Regulation of Thermal Installations in Buildings, the documentation necessary for commissioning the completed thermal installation must be submitted by the installation firm.

These firms must be authorised and registered in accordance with the criteria laid down in RD 1027/2007.

RD 2060/2008 approving the Regulation for pressurised equipment and supplementary thermal instructions and RD 842/2002 approving the Regulation for Low-Voltage Electrical Installations both require that the documentation submitted for commissioning be issued by an authorised installation firm, as no authorisation is required from the Administration..

### TOWN PLANNING

### ENVIRONMENT

